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# The Election Laws

OF THE

## STATE OF OHIO

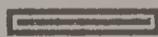
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Applicable to the Conduct  
of Elections and the Duties  
of Officers in Connection  
Therewith



Compiled by  
**C. Q. HILDEBRANT**  
Secretary of State

**1915**



# THE ELECTION LAWS

OF THE

STATE OF OHIO

AND OF THE

UNITED STATES OF AMERICA

APPLICABLE TO THE CONDUCT OF ELECTIONS AND  
THE DUTIES OF OFFICERS IN CONNEC-  
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COMPILED BY

C. Q. HILDEBRANT  
SECRETARY OF STATE



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# Election Laws of the United States.

## CITIZENSHIP.

SECTION 1992. All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States.

Who are citizens.

SEC. 1993. All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth, citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States.

Children of citizens born abroad.

SEC. 1994. Any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen.

Married women.

SEC. 1995. All persons born in the district or country formerly known as the territory of Oregon, and subject to the jurisdiction of the United States on the 18th [of] May, 1872, are citizens in the same manner as if born elsewhere in the United States.

Persons born in Oregon.

SEC. 1996. All persons who deserted the military or naval service of the United States, and did not return thereto or report themselves to a provost marshal within sixty days after the issuance of the proclamation by the President, dated the 11th day of March, 1865, are deemed to have voluntarily relinquished and forfeited their rights of citizenship, as well as their right to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens thereof.

Forfeiture of citizenship.

SEC. 1997. No soldier or sailor, however, who faithfully served according to his enlistment until the 19th day of April, 1865, and who, without proper authority or leave first obtained quit his command or refused to serve after that date, shall be held to be a deserter from the army or navy; but this section shall be construed solely as a removal of any disability such soldier or sailor may have incurred, under the preceding section, by the loss of citizenship and of the right to hold office in consequence of his desertion.

Certain soldiers and sailors exempted from forfeiture.

SEC. 1998. Every person who hereafter deserts the military or naval service of the United States, or who, being duly enrolled departs the jurisdiction of the district in which he is enrolled, or goes beyond the limits of the United States with intent to avoid any draft into the military or naval service, lawfully ordered, shall be liable to

Avoiding the draft.

## THE ELECTIVE FRANCHISE. NATURALIZATION.

all the penalties and forfeitures of section nineteen hundred and ninety-six.

Right of expatriation declared.

SEC. 1999. Whereas, the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and, whereas, in the recognition of this principle this government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof; and whereas, it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed; therefore, any declaration, instruction, opinion, order, or decision of any officer of the United States which denies, restricts, impairs, or questions the right of expatriation, is declared inconsistent with the fundamental principles of the republic.

Protection of naturalized citizens in foreign states.

SEC. 2000. All naturalized citizens of the United States, while in foreign countries, are entitled to and shall receive from this government the same protection of persons and property which is accorded to native born citizens.

## THE ELECTIVE FRANCHISE.

Interference by army or naval officers.

SEC. 2003. No officer of the army or navy of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any state, or in any manner interfere with the freedom of any election in any state, or with the exercise of the free right of suffrage in any state.

Race, color or previous condition not to affect the right to vote.

SEC. 2004. All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any state, territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any state or territory, or by or under its authority, to the contrary notwithstanding.

## NATURALIZATION.

Honorably discharged soldiers exempt from certain formalities.

SEC. 2166. Any alien, of the age of twenty-one years and upward, who has enlisted, or may enlist, in the armies of the United States, either the regular or the volunteer forces, and has been, or may be hereafter, honorably discharged, shall be admitted to become a citizen of the United States, upon his petition, without any previous declaration of his intention to become such; and he shall not be required to prove more than one year's residence within

## NATURALIZATION.

the United States previous to his application to become such citizen; and the court admitting such alien shall, in addition to such proof of residence and good moral character, as now provided by law, be satisfied by competent proof of such person's having been honorably discharged from the service of the United States.

SEC. 2169. (*As amended, 1875.*) — The provisions of this title shall apply to aliens being free white persons, and to aliens of African nativity and to persons of African descent.

Aliens of African nativity and descent.

SEC. 2171. No alien who is a native citizen or subject, or a denizen of any country, state, or sovereignty with which the United States are at war, at the time of his application, shall be then admitted to become a citizen of the United States; but persons resident within the United States, or the Territories thereof, on the eighteenth day of June, in the year one thousand eight hundred and twelve, who had before that day made a declaration, according to law, of their intention to become citizens of the United States, or who were on that day entitled to become citizens without making such declaration, may be admitted to become citizens thereof, notwithstanding they were alien enemies at the time and in the manner prescribed by the laws heretofore passed on that subject; nor shall anything herein contained be taken or construed to interfere with or prevent the apprehension and removal, agreeably to law, of any alien enemy at any time previous to the actual naturalization of such alien.

Naturalization to alien enemies prohibited.

SEC. 2174. Every seaman, being a foreigner, who declares his intention of becoming a citizen of the United States in any competent court, and shall have served three years on board of a merchant-vessel of the United States subsequent to the date of such declaration, may, on his application to any competent court, and the production of his certificate of discharge and good conduct during that time, together with the certificate of his declaration of intention to become a citizen, be admitted a citizen of the United States; and every seaman, being a foreigner, shall, after his declaration of intention to become a citizen of the United States, and after he shall have served such three years, be deemed a citizen of the United States for the purpose of manning and serving on board any merchant-vessel of the United States, anything to the contrary in any act of Congress notwithstanding; but such seaman shall, for all purposes of protection as an American citizen, be deemed such, after the filing of his declaration of intention to become such citizen.

Alien seamen of merchant vessels.

## TWENTY-SECOND STATUTES AT LARGE, PAGE 58.

SEC. 14. That hereafter no State court or court of the United States, shall admit Chinese to citizenship; and all laws in conflict with this act are hereby repealed,

Naturalization of Chinese prohibited.

## TWENTY-EIGHTH STATUTES AT LARGE, PAGE 124.

Aliens honorably discharged from service in Navy or Marine Corps.

Any alien of the age of twenty-one years and upward who has enlisted or may enlist in the United States Navy or Marine Corps, and has served or may hereafter serve five consecutive years in the United States Navy or one enlistment in the United States Marine Corps, and has been or may hereafter be honorably discharged, shall be admitted to become a citizen of the United States upon his petition, without any previous declaration of his intention to become such; and the court admitting such alien shall, in addition to proof of good moral character, be satisfied by competent proof of such person's service in and honorable discharge from the United States Navy or Marine Corps.

## AN ACT TO VALIDATE CERTAIN CERTIFICATES OF NATURALIZATION.

[Stat. 1905-6, Part I, p. 630.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That naturalization certificates issued after the Act approved March third, nineteen hundred and three, entitled, "An Act to regulate the immigration of aliens into the United States," went into effect, which fail to show that the courts issuing said certificates complied with the requirements of section thirty-nine of said Act, but which were otherwise lawfully issued, are hereby declared to be valid as though said certificates complied with said section: *Provided,* That in all such cases applications shall be made for new naturalization certificates, and when the same are granted, upon compliance with the provisions of said Act of nineteen hundred and three, they shall relate back to the defective certificates, and citizenship shall be deemed to have been perfected at the date of the defective certificate.

SEC. 2. That all the records relating to naturalization, all declarations of intention to become citizens of the United States, and all certificates of naturalization filed, recorded, or issued prior to the time when this Act takes effect in or from the criminal court of Cook County, Illinois, shall for all purposes be deemed to be and to have been made, filed, recorded, or issued by a court with jurisdiction to naturalize aliens, but shall not be by this Act further validated or legalized.

Approved June 29, 1906.

## NATURALIZATION ACT OF JUNE 29, 1906.

[Stat. 1905-6, Part I, p. 596.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the designation of the Bureau of Immigration

## NATURALIZATION.

in the Department of Commerce and Labor is hereby changed to the "Bureau of Immigration and Naturalization," which said Bureau, under the direction and control of the Secretary of Commerce and Labor, in addition to the duties now provided by law, shall have charge of all matters concerning the naturalization of aliens. That it shall be the duty of the said Bureau to provide, for use at the various immigration stations throughout the United States, books of record, wherein the commissioners of immigration shall cause a registry to be made in the case of each alien arriving in the United States from and after the passage of this Act of the name, age, occupation, personal description (including height, complexion, color of hair and eyes), the place of birth, the last residence, the intended place of residence in the United States, and the date of arrival of said alien, and, if entered through a port, the name of the vessel in which he comes. And it shall be the duty of said commissioners of immigration to cause to be granted to such alien a certificate of such registry, with the particulars thereof.

SEC. 2. That the Secretary of Commerce and Labor shall provide the said Bureau with such additional furnished offices within the city of Washington, such books of record and facilities, and such additional assistants, clerks, stenographers, typewriters, and other employees as may be necessary for the proper discharge of the duties imposed by this Act upon such Bureau, fixing the compensation of such additional employees until July first, nineteen hundred and seven, within the appropriations made for that purpose.

SEC. 3. That exclusive jurisdiction to naturalize aliens as citizens of the United States is hereby conferred upon the following specified courts:

United States circuit and district courts now existing, or which may hereafter be established by Congress in any State, United States district courts for the Territories of Arizona, New Mexico, Oklahoma, Hawaii, and Alaska, the supreme court of the District of Columbia, and the United States courts for the Indian Territory; also all courts of record in any State or Territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited.

That the naturalization jurisdiction of all courts herein specified, State, Territorial, and Federal, shall extend only to aliens, resident within the respective judicial districts of such courts.

The courts herein specified shall, upon the requisition of the clerks of such courts, be furnished from time to time by the Bureau of Immigration and Naturalization with such blank forms as may be required in the naturalization of aliens, and all certificates of naturalization shall be con-

## NATURALIZATION.

secutively numbered and printed on safety paper furnished by said Bureau.

SEC. 4. That an alien may be admitted to become a citizen of the United States in the following manner and not otherwise:

First. He shall declare on oath before the clerk of any court authorized by this Act to naturalize aliens, or his authorized deputy, in the district in which such alien resides, two years at least prior to his admission, and after he has reached the age of eighteen years, that it is bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly, by name, to the prince, potentate, state, or sovereignty of which the alien may be at the time a citizen or subject. And such declaration shall set forth the name, age, occupation, personal description, place of birth, last foreign residence and allegiance, the date of arrival, the name of the vessel, if any, in which he came to the United States, and the present place of residence in the United States of said alien: *Provided, however,* That no alien who, in conformity with the law in force at the date of his declaration, has declared his intention to become a citizen of the United States shall be required to renew such declaration.

Second. Not less than two years nor more than seven years after he has made such declaration of intention he shall make and file, in duplicate, a petition in writing, signed by the applicant in his own handwriting and duly verified, in which petition such applicant shall state his full name, his place of residence (by street and number, if possible), his occupation, and if possible, the date and place of his birth; the place from which he emigrated, and the date and place of his arrival in the United States, and, if he entered through a port, the name of the vessel on which he arrived; the time when and the place and name of the court, where he declared his intention to become a citizen of the United States; if he is married he shall state the name of his wife and, if possible, the country of her nativity and her place of residence at the time of filing his petition; and if he has children, the name, date, and place of birth and place of residence of each child living at the time of the filing of his petition: *Provided,* That if he has filed his declaration before the passage of this Act he shall not be required to sign the petition in his own handwriting.

The petition shall set forth that he is not a disbeliever in or opposed to organized government, or a member of or affiliated with any organization or body of persons teaching disbelief in or opposed to organized government, a polygamist or believer in the practice of polygamy, and that it is his intention to become a citizen of the United States and to renounce absolutely and forever all allegiance

## NATURALIZATION.

and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly by name to the prince, potentate, state, or sovereignty of which he at the time of filing of his petition may be a citizen or subject, and that it is his intention to reside permanently within the United States, and whether or not he has been denied admission as a citizen of the United States, and, if denied, the ground or grounds of such denial, the court or courts in which such decision was rendered, and that the cause for such denial has since been cured or removed, and every fact material to his naturalization and required to be proved upon the final hearing of his application.

The petition shall also be verified by the affidavits of at least two credible witnesses, who are citizens of the United States, and who shall state in their affidavits that they have personally known the applicant to be a resident of the United States for a period of at least five years continuously, and of the State, Territory, or district in which the application is made for a period of at least one year immediately preceding the date of the filing of his petition, and that they each have personal knowledge that the petitioner is a person of good moral character, and that he is in every way qualified, in their opinion, to be admitted as a citizen of the United States.

At the time of filing his petition there shall be filed with the clerk of the court a certificate from the Department of Commerce and Labor, if the petitioner arrives in the United States after the passage of this Act, stating the date, place, and manner of his arrival in the United States, and the declaration of intention of such petitioner, which certificate and declaration shall be attached to and made a part of said petition.

Third. He shall, before he is admitted to citizenship, declare on oath in open court that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly by name to the prince, potentate, state, or sovereignty of which he was before a citizen or subject; that he will support and defend the Constitution and laws of the United States against all enemies, foreign and domestic, and bear true faith and allegiance to the same.

Fourth. It shall be made to appear to the satisfaction of the court admitting any alien to citizenship that immediately preceding the date of his application he has resided continuously within the United States five years at least, and within the State or Territory where such court is at the time held one year at least, and that during that time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same. In addition to the oath of the applicant, the testi-

## NATURALIZATION.

mony of at least two witnesses, citizens of the United States, as to the facts of residence, moral character, and attachment to the principles of the Constitution shall be required, and the name, place of residence, and occupation of each witness shall be set forth in the record.

Fifth. In case the alien applying to be admitted to citizenship has borne any hereditary title, or has been of any of the orders of nobility in the kingdom or state from which he came, he shall, in addition to the above requisites, make an express renunciation of his title or order of nobility in the court to which his application is made, and his renunciation shall be recorded in the court.

Sixth. When any alien who has declared his intention to become a citizen of the United States dies before he is actually naturalized, the widow and minor children of such alien may, by complying with the other provisions of this Act, be naturalized without making any declaration of intention.

SEC. 5. That the clerk of the court shall, immediately after filing the petition, give notice thereof by posting in a public and conspicuous place in his office, or in the building in which his office is situated, under an appropriate heading, the name, nativity, and residence of the alien, the date and place of his arrival in the United States, and the date, as nearly as may be, for the final hearing of his petition, and the names of the witnesses whom the applicant expects to summon in his behalf; and the clerk shall, if the applicant requests it, issue a subpoena for the witnesses so named by the said applicant to appear upon the day set for the final hearing, but in case such witness cannot be produced upon the final hearing other witnesses may be summoned.

SEC. 6. That petitions for naturalization may be made and filed during term time or vacation of the court and shall be docketed the same day as filed, but final action thereon shall be had only on stated days, to be fixed by rule of the court, and in no case shall final action be had upon a petition until at least ninety days have elapsed after filing and posting the notice of such petition. *Provided* That no person shall be naturalized nor shall any certificate of naturalization be issued by any court within thirty days preceding the holding of any general election within its territorial jurisdiction. It shall be lawful, at the time and as a part of the naturalization of an alien, for the court, in its discretion, upon the petition of such alien, to make a decree changing the name of said alien, and his certificate of naturalization shall be issued to him in accordance therewith.

SEC. 7. That no person who disbelieves in or who is opposed to organized government, or who is a member of or affiliated with any organization entertaining and teaching such disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or

## NATURALIZATION.

propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States, or of any other organized government, because of his or their official character, or who is a polygamist, shall be naturalized or be made a citizen of the United States.

SEC. 8. That no alien shall hereafter be naturalized or admitted as a citizen of the United States who cannot speak the English language: *Provided*, That this requirement shall not apply to aliens who are physically unable to comply therewith, if they are otherwise qualified to become citizens of the United States: *And provided further*, That the requirements of this section shall not apply to any alien who has prior to the passage of this Act declared his intention to become a citizen of the United States in conformity with the law in force at the date of making such declaration: *Provided further*, That the requirements of section eight shall not apply to aliens who shall hereafter declare their intention to become citizens and who shall make homestead entries upon the public lands of the United States and comply in all respects with the laws providing for homestead entries on such lands.

SEC. 9. That every final hearing upon such petition shall be had in open court before a judge or judges thereof, and every final order which may be made upon such petition shall be under the hand of the court and entered in full upon a record kept for that purpose, and upon such final hearing of such petition the applicant and witnesses shall be examined under oath before the court and in the presence of the court.

SEC. 10. That in case the petitioner has not resided in the State, Territory, or district for a period of five years continuously and immediately preceding the filing of his petition he may establish by two witnesses, both in his petition and at the hearing, the time of his residence within the State, provided that it has been for more than one year, and the remaining portion of his five years' residence within the United States required by law to be established may be proved by the depositions of two or more witnesses who are citizens of the United States, upon notice to the Bureau of Immigration and Naturalization and the United States attorney for the district in which said witnesses may reside.

SEC. 11. That the United States shall have the right to appear before any court or courts exercising jurisdiction in naturalization proceedings for the purpose of cross-examining the petitioner and the witnesses produced in support of his petition concerning any matter touching or in any way affecting his right to admission to citizenship, and shall have the right to call witnesses, produce evidence, and be heard in opposition to the granting of any petition in naturalization proceedings.

## NATURALIZATION.

SEC. 12. That it is hereby made the duty of the clerk of each and every court exercising jurisdiction in naturalization matters under the provisions of this Act to keep and file a duplicate of each declaration of intention made before him and to send to the Bureau of Immigration and Naturalization at Washington, within thirty days after the issuance of a certificate of citizenship, a duplicate of such certificate, and to make and keep on file in his office a stub for each certificate so issued by him, whereon shall be entered a memorandum of all the essential facts set forth in such certificate. It shall also be the duty of the clerk of each of said courts to report to the said Bureau, within thirty days after the final hearing and decision of the court, the name of each and every alien who shall be denied naturalization, and furnish to said Bureau duplicates of all petitions within thirty days after the filing of the same, and certified copies of such other proceedings and orders instituted in or issued out of said court affecting or relating to the naturalization of aliens as may be required from time to time by the said Bureau.

In case any such clerk or officer acting under his direction shall refuse or neglect to comply with any of the foregoing provisions he shall forfeit and pay to the United States the sum of twenty-five dollars in each and every case in which such violation or omission occurs, and the amount of such forfeiture may be recovered by the United States in an action of debt against such clerk.

Clerks of courts having and exercising jurisdiction in naturalization matters shall be responsible for all blank certificates of citizenship received by them from time to time from the Bureau of Immigration and Naturalization, and shall account for the same to the said Bureau whenever required so to do by such Bureau. No certificate of citizenship received by any such clerk which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed, but such certificate shall be returned to the said Bureau; and in case any such clerk shall fail to return or properly account for any certificate furnished by the said Bureau, as herein provided, he shall be liable to the United States in the sum of fifty dollars, to be recovered in an action of debt, for each and every certificate not properly accounted for or returned.

SEC. 13. That the clerk of each and every court exercising jurisdiction in naturalization cases shall charge, collect, and account for the following fees in each proceeding:

For receiving and filing a declaration of intention and issuing a duplicate thereof, one dollar.

For making, filing, and docketing the petition of an alien for admission as a citizen of the United States and for the final hearing thereon, two dollars; and for entering

## NATURALIZATION.

the final order and the issuance of the certificate of citizenship thereunder, if granted, two dollars.

The clerk of any court collecting such fees is hereby authorized to retain one-half of the fees collected by him in such naturalization proceeding; the remaining one-half of the naturalization fees in each case collected by such clerks, respectively, shall be accounted for in their quarterly accounts, which they are hereby required to render the Bureau of Immigration and Naturalization, and paid over to such Bureau within thirty days from the close of each quarter in each and every fiscal year, and the moneys so received shall be paid over to the disbursing clerk of the Department of Commerce and Labor, who shall thereupon deposit them in the Treasury of the United States, rendering an account therefor quarterly to the Auditor for the State and other Departments, and the said disbursing clerk shall be held responsible under his bond for said fees so received.

In addition to the fees herein required, the petitioner shall, upon the filing of his petition to become a citizen of the United States, deposit with and pay to the clerk of the court a sum of money sufficient to cover the expenses of subpoenaing and paying the legal fees of any witnesses for whom he may request a subpoena, and upon the final discharge of such witnesses they shall receive, if they demand the same from the clerk, the customary and usual witness fees from the moneys which the petitioner shall have paid to such clerk for such purpose, and the residue, if any, shall be returned by the clerk to the petitioner: *Provided*, That the clerks of courts exercising jurisdiction in naturalization proceedings shall be permitted to retain one-half of the fees in any fiscal year up to the sum of three thousand dollars, and that all fees received by such clerks in naturalization proceedings in excess of such amount shall be accounted for and paid over to said Bureau as in case of other fees to which the United States may be entitled under the provisions of this Act. The clerks of the various courts exercising jurisdiction in naturalization proceedings shall pay all additional clerical force that may be required in performing the duties imposed by this Act upon the clerks of courts from fees received by such clerks in naturalization proceedings. And in case the clerk of any court collects fees in excess of the sum of six thousand dollars in any one year, the Secretary of Commerce and Labor may allow to such clerk from the money which the United States shall receive additional compensation for the employment of additional clerical assistance, but for no other purpose, if in the opinion of the said Secretary the business of such clerk warrants such allowance.

SEC. 14. That the declarations of intention and the petitions for naturalization shall be bound in chronological order in separate volumes, indexed, consecutively numbered,

## NATURALIZATION.

and made part of the records of the court. Each certificate of naturalization issued shall bear upon its face, in a place prepared therefor the volume number and page number of the petition whereon such certificate was issued, and the volume number and page number of the stub of such certificate.

SEC. 15. That it shall be the duty of the United States district attorneys for the respective districts, upon affidavit showing good cause therefor, to institute proceedings in any court having jurisdiction to naturalize aliens in the judicial district in which the naturalized citizen may reside at the time of bringing the suit, for the purpose of setting aside and cancelling the certificate of citizenship on the ground of fraud or on the ground that such certificate of citizenship was illegally procured. In any such proceedings the party holding the certificate of citizenship alleged to have been fraudulently or illegally procured shall have sixty days' personal notice in which to make answer to the petition of the United States; and if the holder of such certificate be absent from the United States, or from the district in which he last had his residence, such notice shall be given by publication in the manner provided for the service of summons by publication or upon absentees by the laws of the State or the place where such suit is brought.

If any alien who shall have secured a certificate of citizenship under the provisions of this Act shall, within five years after the issuance of such certificate, return to the country of his nativity, or go to any other foreign country, and take permanent residence therein, it shall be considered prima facie evidence of a lack of intention on the part of such alien to become a permanent citizen of the United States at the time of filing his application for citizenship, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the cancellation of his certificate of citizenship as fraudulent, and the diplomatic and consular officers of the United States in foreign countries shall from time to time, through the Department of State, furnish the Department of Justice with the names of those within their respective jurisdictions who have such certificates of citizenship and who have taken permanent residence in the country of their nativity, or in any other foreign country, and such statements, duly certified shall be admissible in evidence in all courts in proceedings to cancel certificates of citizenship.

Whenever any certificate of citizenship shall be set aside or canceled, as herein provided, the court in which such judgment or decree is rendered shall make an order cancelling such certificate of citizenship and shall send a certified copy of such order to the Bureau of Immigration and Naturalization; and in case such certificate was not originally issued by the court making such order it shall direct the clerk of the court to transmit a copy of such

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order and judgment to the court out of which such certificate of citizenship shall have been originally issued. And it shall thereupon be the duty of the clerk of the court receiving such certified copy of the order and judgment of the court to enter the same of record and to cancel such original certificate of citizenship upon the records and to notify the Bureau of Immigration and Naturalization of such cancellation.

The provisions of this section shall apply not only to certificates of citizenship issued under the provisions of this Act, but to all certificates of citizenship which may have been issued heretofore by any court exercising jurisdiction in naturalization proceedings under prior laws.

SEC. 16. That every person who falsely makes, forges, counterfeits, or causes or procures to be falsely made, forged, or counterfeited, or knowingly aids or assists in falsely making, forging, or counterfeiting any certificate of citizenship, with intent to use the same, or with the intent that the same may be used by some other person or persons, shall be guilty of a felony, and a person convicted of such offense shall be punished by imprisonment for not more than ten years, or by a fine of not more than ten thousand dollars, or by both such fine and imprisonment.

SEC. 17. That every person who engraves or causes or procures to be engraved, or assists in engraving, any plate in the likeness of any plate designed for the printing of a certificate of citizenship, or who sells any such plate, or who brings into the United States from any foreign place any such plate, except under the direction of the Secretary of Commerce and Labor, or other proper officer, and any person who has in his control, custody, or possession any metallic plate engraved after the similitude of any plate from which any such certificate has been printed, with intent to use such plate or suffer the same to be used in forging or counterfeiting any such certificate or any part thereof; and every person who prints, photographs, or in any other manner causes to be printed, photographed, made, or executed, any print or impression in the likeness of any such certificate, or any part thereof, or who sells any such certificate, or brings the same into the United States from any foreign place, except by direction of some proper officer of the United States, or who has in his possession a distinctive paper which has been adopted by the proper officer of the United States for the printing of such certificate, with intent to unlawfully use the same, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment at hard labor for not more than ten years, or by both such fine and imprisonment.

SEC. 18. That it is hereby made a felony for any clerk or other person to issue or be a party to the issuance of a certificate of citizenship contrary to the provisions of this Act, except upon a final order under the hand of a

## NATURALIZATION.

court having jurisdiction to make such order, and upon conviction thereof such clerk or other person shall be punished by imprisonment for not more than five years and by a fine of not more than five thousand dollars, in the discretion of the court.

SEC. 19. That every person who without lawful excuse is possessed of any blank certificate of citizenship provided by the Bureau of Immigration and Naturalization with intent unlawfully to use the same, shall be imprisoned at hard labor not more than five years or be fined not more than one thousand dollars.

SEC. 20. That any clerk or other officer of a court having power under this Act to naturalize aliens, who willfully neglects to render true accounts of moneys received by him for naturalization proceedings or who willfully neglects to pay over any balance of such moneys due to the United States within thirty days after said payment shall become due and demand therefor has been made and refused, shall be deemed guilty of embezzlement of the public moneys, and shall be punishable by imprisonment for not more than five years, or by a fine of not more than five thousand dollars, or both.

SEC. 21. That it shall be unlawful for any clerk of any court or his authorized deputy or assistant exercising jurisdiction in naturalization proceedings, or to demand, charge, collect, or receive any other additional fees or moneys in naturalization proceedings save the fees and moneys herein specified; and a violation of any of the provisions of this section or any part thereof is hereby declared to be a misdemeanor and shall be punished by imprisonment for not more than two years, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment.

SEC. 22. That the clerk of any court exercising jurisdiction in naturalization proceedings, or any person acting under authority of this Act, who shall knowingly certify that a petitioner, affiant, or witness named in an affidavit, petition, or certificate of citizenship, or other paper or writing required to be executed under the provisions of this Act, personally appeared before him and was sworn thereto, or acknowledged the execution thereof or signed the same, when in fact such petitioner, affiant, or witness did not personally appear before him, or was not sworn thereto, or did not execute the same, or did not acknowledge the execution thereof, shall be punished by a fine not exceeding five thousand dollars, or by imprisonment not to exceed five years.

SEC. 23. That any person who knowingly procures naturalization in violation of the provisions of this Act shall be fined not more than five thousand dollars, or shall be imprisoned not more than five years, or both, and upon

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conviction the court in which such conviction is had shall thereupon adjudge and declare the final order admitting such person to citizenship void. Jurisdiction is hereby conferred on the courts having jurisdiction of the trial of such offense to make such adjudication. Any person who knowingly aids, advises, or encourages any person not entitled thereto to apply for or to secure naturalization, or to file the preliminary papers declaring an intent to become a citizen of the United States, or who in any naturalization proceeding knowingly procures or gives false testimony as to any material fact, or who knowingly makes an affidavit false as to any material fact required to be proved in such proceeding, shall be fined not more than five thousand dollars, or imprisoned not more than five years, or both.

SEC. 24. That no person shall be prosecuted, tried, or punished for any crime arising under the provisions of this Act unless the indictment is found or the information is filed within five years next after the commission of such crime.

SEC. 25. That for the purpose of the prosecution of all crimes and offenses against the naturalization laws of the United States which may have been committed prior to the date when this Act shall go into effect, the existing naturalization laws shall remain in full force and effect.

SEC. 26. That sections twenty-one hundred and sixty-five, twenty-one hundred and sixty-seven, twenty-one hundred and sixty-eight, twenty-one hundred and seventy-three, of the Revised Statutes of the United States of America, and section thirty-nine of chapter one thousand and twelve of the Statutes at Large of the United States of America for the year nineteen hundred and three, and all Acts or parts of Acts inconsistent with or repugnant to the provisions of this Act are hereby repealed.

SEC. 27. That substantially the following forms shall be used in the proceedings to which they relate:

## DECLARATION OF INTENTION.

(Invalid for all purposes seven years after the date hereof.)

....., ss:

I ....., aged ..... years, occupation ....., do declare on oath (affirm) that my personal description is: Color ....., complexion..... height ....., weight ....., color of hair..... color of eyes....., other visible distinctive marks .....; I was born in ..... on the ..... day of ....., anno Domini.....; I now reside at.....; I emigrated to the United States of America from..... on the vessel.....; my last foreign residence was ..... It is my bona fide intention to renounce forever all allegiance and fidelity to any foreign prince, po-

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tentate, state, or sovereignty, and particularly to.....  
of which I am now a citizen (subject); I arrived at the  
(port) of....., in the State (Territory or District)  
of.....on or about the.....day of.....anno  
Domini.....; I am not an anarchist; I am not a  
polygamist nor a believer in the practice of polygamy; and  
it is my intention in good faith to become a citizen of the  
United States of America and to permanently reside  
therein. So help me God.

.....  
(Original signature of declarant)

Subscribed and sworn to (affirmed) before me this  
.....day of....., anno Domini.....

[L. S.] .....

(Official character of attestor.)

PETITION FOR NATURALIZATION.

.....Court of.....

In the matter of the petition of.....to be  
admitted as a citizen of the United States of America.

To the.....Court:

The petition of.....respectfully shows:

First. My full name is.....

Second. My place of residence is number.....  
.....street, city of....., State (Territory  
or District) of.....

Third. My occupation is.....

Fourth. I was born on the.....day of.....  
at.....

Fifth. I emigrated to the United States from.....  
on or about the.....day of....., anno Domini  
....., and arrived at the port of....., in the  
United States, on the vessel.....

Sixth. I declared my intention to become a citizen of  
the United States on the.....day of.....at  
....., in the.....court of.....

Seventh. I am...married. My wife's name is....  
..... She was born in.....and now resides at  
..... I have.....children and the name, date,  
and place of birth and place of residence of each of said  
children is as follows:.....  
.....; .....

Eighth. I am not a disbeliever in or opposed to or-  
ganized government or a member of or affiliated with any  
organization or body of persons teaching disbelief in or-  
ganized government. I am not a polygamist nor a be-  
liever in the practice of polygamy. I am attached to the  
principles of the Constitution of the United States, and  
it is my intention to become a citizen of the United States  
and to renounce absolutely and forever all allegiance and

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fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to . . . . ., of which at this time I am a citizen (or subject), and it is my intention to reside permanently in the United States.

Ninth. I am able to speak the English language.

Tenth. I have resided continuously in the United States of America for a term of five years at least immediately preceding the date of this petition, to-wit, since . . . . . anno Domini, and in the State (Territory or District) of . . . . . for one year at least next preceding the date of this petition, to-wit, since . . . . . day of . . . . . anno Domini . . . . .

Eleventh. I have not heretofore made petition for citizenship to any court. (I made petition for citizenship to the . . . . . court of . . . . ., at . . . . ., and the said petition was denied by the said court for the following reasons and causes, to-wit, . . . . ., and the cause of such denial has since been cured or removed.)

Attached hereto and made a part of this petition are my declaration of intention to become a citizen of the United States and the certificate from the Department of Commerce and Labor required by law. Wherefore your petitioner prays that he may be admitted a citizen of the United States of America.

Dated . . . . .

(Signature of petitioner) . . . . .

. . . . ., ss:

. . . . ., being duly sworn, deposes and says that he is the petitioner in the above-entitled proceedings; that he has read the foregoing petition and knows the contents thereof; that the same is true of his own knowledge, except as to matters therein stated to be alleged upon informaiton and belief, and that as to those matters he believes it to be true.

Subscribed and sworn to before me this . . . . . day of . . . . . anno Domini . . . . .

[L S]

Clerk of the . . . . . Court

AFFIDAVIT OF WITNESSES.

. . . . . Court of . . . . .

In the matter of the petition of . . . . . to be admitted a citizen of the United States of America.

. . . . ., ss:

. . . . ., occupation . . . . ., residing at . . . . ., and . . . . ., occupation . . . . . residing at . . . . ., each being severally, duly, and respectively sworn, deposes and says that he is a citizen of the United States of Amreica; that he has personally known . . . . . the petitioner above mentioned, to be a resident of the United States for a period of at least

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five years continuously immediately preceding the date of filing his petition, and of the State (Territory or District) in which the above-entitled application is made for a period of..... years immediately preceding the date of filing his petition; and that he has personal knowledge that the said petitioner is a person of good moral character, attached to the principles of the Constitution of the United States, and that he is in every way qualified, in his opinion, to be admitted as a citizen of the United States.

.....  
.....

Subscribed and sworn to before me this.....day of ....., nineteen hundred and .....

[L. s.]

.....  
(Official character of attestor.)

CERTIFICATE OF NATURALIZATION.

Number.....

Petition, volume....., page.....

Stub, volume....., page.....

(Signature of holder) .....

Description of holder; Age, .....; height.....; color, .....; complexion, .....; color of eyes, .....; color of hair, .....; visible distinguishing marks, ..... Name, age, and place of residence of wife, ..... Names, ages, and places of residence of minor children....., ..... ; ..... ; ..... ; .....  
....., .....

....., ss:

Be it remembered, that at a..... term of the ..... court of.....held at.....on the .....day of.....; in the year of our Lord nineteen hundred and....., who previous to his (her) naturalization was a citizen or subject of..... at present residing at number.....street, .....city (town), .....State (Territory or District), having applied to be admitted a citizen of the United States of America pursuant to law, and the court having found that the petitioner had resided continuously within the United States for at least five years and in this State for one year immediately preceding the date of the hearing of his (her) petition, and that said petitioner intends to reside permanently in the United States, had in all respects complied with the law in relation thereto, and that ....he was entitled to be so admitted, it was thereupon ordered by the said court that..he be admitted as a citizen of the United States of America.

In testimony whereof the seal of said court is hereunto affixed on the.....day of.....in the year

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of our Lord nineteen hundred and....., and of our independence the.....

[L. s.]

(Official character of attestor.)

STUB OF CERTIFICATE OF NATURALIZATION.

No. of certificate.....

Name.....; age, .....

Declaration of intention, volume....., page.....

Petition, volume....., page.....

Name, age, and place of residence of wife.....

..... Names, ages and places of residence of minor children, .....

....., ....., ....., .....

.....

.....

Date of order, volume....., page.....

(Signature of holder) .....

SEC. 28. That the Secretary of Commerce and Labor shall have power to make such rules and regulations as may be necessary for properly carrying into execution the various provisions of this Act. Certified copies of all papers, documents, certificates, and records required to be used, filed, recorded, or kept under any and all of the provisions of this Act shall be admitted in evidence equally with the originals in any and all proceedings under this Act and in all cases in which the originals thereof might be admissible as evidence.

SEC. 30. That all the applicable provisions of the naturalization laws of the United States shall apply to and be held to authorize the admission to citizenship of all persons not citizens who owe permanent allegiance to the United States, and who may become residents of any State or organized Territory of the United States, with the following modifications: The applicant shall not be required to renounce allegiance to any foreign sovereignty; he shall make his declaration of intention to become a citizen of the United States at least two years prior to his admission; and residence within the jurisdiction of the United States, owing such permanent allegiance, shall be regarded as residence within the United States within the meaning of the five years' residence clause of the existing law.

SEC. 31. That this Act shall take effect and be in force from and after ninety days from the date of its passage: *Provided*, That sections one, two, twenty-eight, and twenty-nine shall go into effect from and after the passage of this Act.

Approved, June 29, 1906.

**PROVISIONS**  
of the  
**Constitution of the State of Ohio**  
**RELATING TO ELECTIONS**

ARTICLE V.  
ELECTIVE FRANCHISE.

Who may  
vote.

SEC. 1. Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of the state one year next preceding the election, and of the county township, or ward, in which he resides, such time as may be provided by law, shall have the qualifications of an elector, and be entitled to vote at all elections.

NOTE:—1. This restriction on the elective franchise is now abrogated by the 14th and 15th articles of amendment to the Federal Constitution.

2. An inmate of a county infirmary who has adopted the township in which the infirmary is situated as his place of residence, having no family elsewhere, and who possesses the other qualifications required by law, is entitled to vote in the township in which said infirmary is situated. *Sturgeon v. Korte* 34 O. S. 525, 533.

By ballot.

SEC. 2. All elections shall be by ballot.  
For definition of "ballot" see *State v. Board*, 80 O. S. 471.

Voters, when  
privileged  
from arrest.

SEC. 3. Electors during their attendance at elections, and in going to, and returning therefrom, shall be privileged from arrest in all cases, except treason, felony, and breach of the peace.

Forfeiture of  
elective fran-  
chise.

SEC. 4. The general assembly shall have power to exclude from the privilege of voting, or of being eligible to office, any person convicted of bribery, perjury or other infamous crimes.

Persons not  
considered  
residents of  
the state.

SEC. 5. No person in the military, naval, or marine service in the United States, shall by being stationed in any garrison, or military, or naval station, within the state, be considered a resident of this state.

Idiots or in-  
sane persons.

SEC. 6. No idiot, or insane person, shall be entitled to the privileges of an elector.

Nomination  
of elective  
officers by  
direct vote.

SEC. 7. All nominations for elective state, district, county and municipal offices shall be made at direct primary elections or by petition as provided by law, and provision shall be made by law for a preferential vote for United States senator; but direct primaries shall not be held for

RELATING TO ELECTIONS.

the nomination of township officers or for the officers of municipalities of less than two thousand population, unless petitioned for by a majority of the electors of such township or municipality. All delegates from this state to the national conventions of political parties shall be chosen by direct vote of the electors. Each candidate for such delegate shall state his first and second choices for the presidency, which preferences shall be printed upon the primary ballot below the name of such candidate, but the name of no candidate for the presidency shall be so used without his written authority.

Section does not apply to townships or municipalities less than 2000 population.

ARTICLE XVII.

SEC. 1. Elections for state and county officers shall be held on the first Tuesday after the first Monday in November in the even numbered years; and all elections for all other elective officers shall be held on the first Tuesday after the first Monday in November in the odd numbered years.

Times for holding elections.

SEC. 2. The term of office of the governor, lieutenant governor, attorney-general, secretary of state and treasurer of state shall be two years, and that of the auditor of state shall be four years. The term of office of the judges of the supreme court and circuit courts shall be such even number of years not less than six (6) years as may be prescribed by the general assembly; that of the judges of the common pleas court six (6) years and of the judges of the probate court, four (4) years, and that of other judges shall be such even number of years not exceeding six (6) years as may be prescribed by the general assembly. The term of office of justices of the peace shall be such even number of years not exceeding four (4) years as may be so prescribed; and the term of office of the members of the board of public works shall be such even number of years not exceeding six (6) years as may be prescribed; and the term of office of all elective county, township, municipal and school officers shall be such even number of years not exceeding four (4) years as may be so prescribed.

Terms of officers.

And the general assembly shall have power to so extend existing terms of office as to effect the purpose of section 1 of this article.

Any vacancy which may occur in any elective state office other than that of a member of the general assembly or of governor, shall be filled by appointment by the governor until the disability is removed, or a successor elected and qualified. Every such vacancy shall be filled by election at the first general election for the office which is vacant, that occurs more than thirty (30) days after the vacancy shall have occurred. The person elected shall fill the office for the unexpired term. All vacancies in other elective offices shall be filled for the unexpired term in such manner as may be prescribed by law.

Vacancies.

SEC. 3. Every elective officer holding office when this amendment is adopted, shall continue to hold such office for the full term for which he was elected, and until his successor shall be elected and qualified as provided by law.

## ARTICLE II.

### LEGISLATIVE.

Right reserved to propose laws and amendments to the constitution and to adopt or reject the same at the polls.

SEC. 1. The legislative power of the state shall be vested in a general assembly consisting of a senate and house of representatives but the people reserve to themselves the power to propose to the general assembly laws and amendments to the constitution, and to adopt or reject the same at the polls on a referendum vote as hereinafter provided. They also reserve the power to adopt or reject any law, section of any law or any item in any law appropriating money passed by the general assembly, except as hereinafter provided; and independent of the general assembly to propose amendments to the constitution and to adopt or reject the same at the polls. The limitations expressed in the constitution, on the power of the general assembly to enact laws, shall be deemed limitations on the power of the people to enact laws. (Adopted Sept. 3, 1912.)

Percentum required to propose an amendment; filing petition.

SEC. 1a. The first aforesaid power reserved by the people is designated the initiative, and the signatures of ten per centum of the electors shall be required upon a petition to propose an amendment to the constitution. When a petition signed by the aforesaid required number of electors, shall have been filed with the secretary of state, and verified as herein provided, proposing an amendment to the constitution, the full text of which shall have been set forth in such petition, the secretary of state shall submit for the approval or rejection of the electors, the proposed amendment, in the manner hereinafter provided, at the next succeeding regular or general election in any year occurring subsequent to ninety days after the filing of such petition. The initiative petitions, above described, shall have printed across the top thereof: "Amendment to the Constitution Proposed by Initiative Petition to be Submitted Directly to the Electors". (Adopted Sept. 3, 1912.)

Percentum required to propose a law.

SEC. 1b. When at any time, not less than ten days prior to the commencement of any session of the general assembly, there shall have been filed with the secretary of state a petition signed by three per centum of the electors and verified as herein provided, proposing a law, the full text of which shall have been set forth in such petition, the secretary of state shall transmit the same to the general assembly as soon as it convenes. If said proposed law shall be passed by the general assembly, either as petitioned for or in an amended form, it shall be subject to the referendum. If it shall not be passed, or if it shall be passed in an amended form, or if no action shall be taken thereon within four months from the time it is received

When proposed law shall be referred to electors; supplementary petition.

by the general assembly, it shall be submitted by the secretary of state to the electors for their approval or rejection at the next regular or general election, if such submission shall be demanded by supplementary petition verified as herein provided and signed by not less than three per centum of the electors in addition to those signing the original petition, which supplementary petition must be signed and filed with the secretary of state within ninety days after the proposed law shall have been rejected by the general assembly or after the expiration of such term of four months, if no action has been taken thereon, or after the law as passed by the general assembly shall have been filed by the governor in the office of the secretary of state. The proposed law shall be submitted in the form demanded by such supplementary petition, which form shall be either as first petitioned for or with any amendment or amendments which may have been incorporated therein by either branch or by both branches of the general assembly. If a proposed law so submitted is approved by a majority of the electors voting thereon, it shall be the law and shall go into effect as herein provided in lieu of any amended form of said law which may have been passed by the general assembly, and such amended law passed by the general assembly shall not go into effect until and unless the law proposed by supplementary petition shall have been rejected by the electors. All such initiative petitions, last above described, shall have printed across the top thereof, in case of proposed laws: "Law Proposed by Initiative Petition First to be Submitted to the General Assembly." Ballots shall be so printed as to permit an affirmative or negative vote upon each measure submitted to the electors. Any proposed law or amendment to the constitution submitted to the electors as provided in section 1a and section 1b, if approved by a majority of the electors voting thereon, shall take effect thirty days after the election at which it was approved and shall be published by the secretary of state. If conflicting proposed laws or conflicting proposed amendments to the constitution shall be approved at the same election by a majority of the total number of votes cast for and against the same, the one receiving the highest number of affirmative votes shall be the law, or in the case of amendments to the constitution shall be the amendment to the constitution. No law proposed by initiative petition and approved by the electors shall be subject to the veto of the governor. (Adopted Sept. 3, 1912.)

How Initiative Petition shall be printed; ballot submitting the same.

When proposed law or amendment, if approved shall take effect.

SEC. 1c. The second aforesaid power reserved by the people is designated the referendum, and the signatures of six per centum of the electors shall be required upon a petition to order the submission to the electors of the state for their approval or rejection, of any law, section of any law or any item in any law appropriating money passed

Percentum required to refer a law etc., to the electors; filing petition.

by the general assembly. No law passed by the general assembly shall go into effect until ninety days after it shall have been filed by the governor in the office of the secretary of state, except as herein provided. When a petition, signed by six per centum of the electors of the state and verified as herein provided, shall have been filed with the secretary of state within ninety days after any law shall have been filed by the governor in the office of the secretary of state, ordering that such law, section of such law or any item in such law appropriating money be submitted to the electors of the state for their approval or rejection, the secretary of state shall submit to the electors of the state for their approval or rejection such law, section or item, in the manner herein provided, at the next succeeding regular or general election in any year occurring subsequent to sixty days after the filing of such petition, and no such law, section or item shall go into effect until and unless approved by a majority of those voting upon the same. If, however, a referendum petition is filed against any such section or item, the remainder of the law shall not thereby be prevented or delayed from going into effect. (Adopted Sept. 3, 1912.)

Laws not subject to the referendum.

SEC. id. Laws providing for tax levies, appropriations for the current expenses of the state government and state institutions, and emergency laws necessary for the immediate preservation of the public peace, health or safety, shall go into immediate effect. Such emergency laws upon a yea and nay vote must receive the vote of two-thirds of all the members elected to each branch of the general assembly, and the reasons for such necessity shall be set forth in one section of the law, which section shall be passed only upon a yea and nay vote, upon a separate roll call thereon. The laws mentioned in this section shall not be subject to the referendum. (Adopted Sept. 3, 1912.)

I. and R. shall not be used to classify property or levy single tax.

SEC. ie. The powers defined herein as the "initiative" and "referendum" shall not be used to pass a law authorizing any classification of property for the purpose of levying different rates of taxation thereon or of authorizing the levy of any single tax on land or land values or land sites at a higher rate or by a different rule than is or may be applied to improvements thereon or to personal property. (Adopted Sept. 3, 1912.)

I. and R. powers reserved to municipalities.

SEC. if. The initiative and referendum powers are hereby reserved to the people of each municipality on all questions which such municipalities may now or hereafter be authorized by law to control by legislative action; such powers shall be exercised in the manner now or hereafter provided by law. (Adopted Sept. 3, 1912.)

SEC. 1g. Any initiative, supplementary or referendum petition may be presented in separate parts but each part shall contain a full and correct copy of the title, and text of the law, section or item thereof sought to be referred, or the proposed law or proposed amendment to the constitution. Each signer of any initiative, supplementary or referendum petition must be an elector of the state and shall place on such petition after his name the date of signing and his place of residence. A signer residing outside of a municipality shall state the township and county in which he resides. A resident of a municipality shall state in addition to the name of such municipality, the street and number, if any, of his residence and the ward and precinct in which the same is located. The names of all signers to such petitions shall be written in ink, each signer for himself. To each part of such petition shall be attached the affidavit of the person soliciting the signatures to the same, which affidavit shall contain a statement of the number of the signers of such part of such petition and shall state that each of the signatures attached to such part was made in the presence of the affiant, that to the best of his knowledge and belief each signature on such part is the genuine signature of the person whose name it purports to be, that he believes the persons who have signed it to be electors, that they so signed said petition with knowledge of the contents thereof, that each signer signed the same on the date stated opposite his name; and no other affidavit thereto shall be required. The petition and signatures upon such petitions, so verified, shall be presumed to be in all respects sufficient, unless not later than forty days before the election, it shall be otherwise proved and in such event ten additional days shall be allowed for the filing of additional signatures to such petition. No law or amendment to the constitution submitted to the electors by initiative and supplementary petition and receiving an affirmative majority of the votes cast thereon, shall be held unconstitutional or void on account of the insufficiency of the petitions by which such submission of the same was procured; nor shall the rejection of any law submitted by referendum petition be held invalid for such insufficiency. Upon all initiative, supplementary and referendum petitions provided for in any of the sections of this article, it shall be necessary to file from each of one-half of the counties of the state, petitions bearing the signatures of not less than one-half of the designated percentage of the electors of such county. A true copy of all laws or proposed laws or proposed amendments to the constitution, together with an argument or explanation, or both, for, and also an argument or explanation, or both, against the

What petition or part petitions shall contain; qualifications of signer.

Signing petition; affidavit of solicitor.

Petition and signatures presumed to be sufficient unless otherwise proved; additional signatures.

Not less than one-half the designated percentage required from each of one-half of the counties.

Printing and distribution of copies of proposed laws and amendments together with argument for and against the same.

Preparation and printing of ballot.

Basis upon which number of petitioners determined.

same, shall be prepared. The person or persons who prepare the argument or explanation, or both, against any law, section or item, submitted to the electors by referendum petition, may be named in such petition and the persons who prepare the argument or explanation, or both, for any proposed law or proposed amendment to the constitution may be named in the petition proposing the same. The person or persons who prepare the argument or explanation, or both, for the law, section or item, submitted to the electors by referendum petition, or against any proposed law submitted by supplementary petition, shall be named by the general assembly, if in session, and if not in session then by the governor. The secretary of state shall cause to be printed the law, or proposed law, or proposed amendment to the constitution, together with the arguments and explanations, not exceeding a total of three hundred words for each, and also the arguments and explanations, not exceeding a total of three hundred words against each, and shall mail, or otherwise distribute, a copy of such law, or proposed law, or proposed amendment to the constitution, together with such arguments and explanations for and against the same to each of the electors of the state, as far as may be reasonably possible. Unless otherwise provided by law, the secretary of state shall cause to be placed upon the ballots, the title of any such law, or proposed law, or proposed amendment to the constitution, to be submitted. He shall also cause the ballots so to be printed as to permit an affirmative or negative vote upon each law, section of law, or item in a law appropriating money, or proposed law or proposed amendment to the constitution. The style of all laws submitted by initiative and supplementary petition shall be: "Be it Enacted by the People of the State of Ohio," and of all constitutional amendments: "Be It Resolved by the People of the State of Ohio." The basis upon which the required number of petitioners in any case shall be determined shall be the total number of votes cast for the office of governor at the last preceding election therefor. The foregoing provisions of this section shall be self-executing, except as herein otherwise provided. Laws may be passed to facilitate their operation, but in no way limiting or restricting either such provision or the powers herein reserved. (Adopted Sept. 3, 1912.)

RELATING TO THE FILLING OF VACANCIES IN ELECTIVE STATE OFFICES  
AND JUDGESHIPS.

## VACANCIES.

SECTION 141. A vacancy occurring in an elective state office other than that of a member of the general assembly or of governor, shall be filled by appointment by the governor until the disability is removed, or a successor is elected and qualified. Such vacancies shall be filled by election at the first general election for the office which is vacant, that occurs more than thirty days after the vacancy shall have occurred. The person elected shall fill the office for the unexpired term. (Cons. Art. XVII, Sec. 2; R. S. Sec. 81.)

Vacancy in  
elective state  
office.

SECTION 142. If the office of a judge becomes vacant by reason of the expiration of the term of the incumbent, and a failure to provide therefor at the preceding election, such vacancy shall be filled by appointment by the governor. The person so appointed shall hold the office until a successor is elected and qualified. Such successor shall be elected for the unexpired term at the first general election for the office which is vacant that occurs more than thirty days after such appointment. (R. S. Sec. 82.)

Vacancy in  
office of  
judge;  
failure to  
elect.

## REGULAR ELECTION DAY A HALF HOLIDAY.

SEC. 5976. The first Tuesday after the first Monday in November of each year, between the hours of twelve o'clock noon, central standard time, and five-thirty o'clock p. m. central standard time, shall be a legal part holiday. (103 v. 25.)

A portion of  
election day a  
part holiday.

## TITLE XIV. PUBLIC ELECTIONS.

CHAPTER	1.	SUPERVISION OF ELECTIONS.
CHAPTER	2.	TIME AND NOTICE OF ELECTIONS.
CHAPTER	3.	ELECTION PRECINCTS.
CHAPTER	4.	QUALIFICATIONS OF ELECTORS.
CHAPTER	5.	REGISTRATION OF ELECTORS.
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### CHAPTER 1.

#### SUPERVISION OF ELECTIONS.

##### SECTION

4785. Conduct of public elections.  
4786. Offices of state supervisor and state supervisor and inspector.  
4787. Secretary of state shall perform duties of such offices.

##### DEPUTY STATE SUPERVISORS AND INSPECTORS.

4788. Board of deputy state supervisors and inspectors of elections.  
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4800. Investigation and prosecution of violations of election laws.  
4801. General powers and duties of board.  
4802. How terms "state supervisor" and "clerk" construed.

Conduct of public elections.

Offices of state supervisor and state supervisor and inspector.

SECTION 4785. Except when otherwise provided by law, all public elections in this state shall be conducted according to the provisions of this title. (R. S. Sec. 2922; 97 v. 225 § 1.)

SECTION 4786. There shall be a state supervisor and inspector of elections and a state supervisor of elections, with the powers and duties hereinafter prescribed for the conduct and supervision of the registration of electors and of elections in this state, except as otherwise provided by law. (97 v. 218 § 1.)

##### DEPUTY STATE SUPERVISORS.

##### SECTION

4803. Board of deputy state supervisors.  
4804. Appointment of deputy state supervisors; terms.  
4805. Recommendation by party committee.  
4806. Vacancies.  
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4808. How rightful executive committee determined.  
4809. Oath of deputy state supervisor.  
4810. Removal of deputy state supervisor.  
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4814. Oath of clerk.  
4815. Removal of clerk.  
4816. Clerk may administer oaths.  
4817. Board shall meet before each election.  
4818. Certificates of nominations and nomination papers.  
4819. General duties of deputy state supervisors.  
4820. Investigation of violations of election laws.  
4821. Necessary expenses of the board.  
4822. Compensation of members and clerks.  
4823. Collation and publication of election laws.

SECTION 4787. By virtue of his office, the secretary of state shall be the state supervisor and inspector of elections, and the state supervisor of elections and, in addition to the duties now imposed upon him by law, he shall perform the duties of such offices as prescribed in this title. (97 v. 218 § 2.)

Secretary of state shall perform such offices.

NOTE:—It is not the duty of the Secretary of State to render opinions as to every election complication that arises, but only to advise the deputy state supervisors as to the proper method of conducting elections after they have been called.

#### DEPUTY STATE SUPERVISORS AND INSPECTORS.

SECTION 4788. In each county of the state which contains a city wherein annual general registration of the electors is required by law, or which contains two or more cities in which registration is required by law, there shall be a board of deputy state supervisors and inspectors of elections, consisting of four members who shall be qualified electors of the county. (102 v. 98.)

Board of deputy state supervisors and inspectors of elections.

NOTE:—The Deputy State Supervisors of Elections are not officers within the legal definition of that term, and, though their jurisdiction may be coterminous with that of the county, they are not county officers, and, therefore, Sec. 2966-3 R. S. does not violate Sec. 1 of Art. 10 of the Constitution.

State Ex rel. Vail v. Craig, 8 N. P. 148.

As to powers of board of elections to employ legal counsel see State ex rel. v. Boyden, 10 O. C. D. 137.

A court of equity will not enjoin a board of elections from proceeding in the exercise of its powers on the ground that such proceedings are irregular or illegal, where it does not appear that they will involve any expenditure of the public funds.

Columbus v. City Board of Elections, 13 O. D. 452.

The deputy state supervisors are not constituted a board, or corporate body by the statute, but each one acts simply as a deputy state supervisor, and in case of litigation the action should be against him in that capacity, and he may prosecute an error, even though the others refuse to join with him.

Randall et al. v. State ex rel. Hunter et al., 64 O. S. 57.

SECTION 4789. On or before the first day of May, biennially, the state supervisor and inspector of elections shall appoint for each such county two members of the board of deputy state supervisors and inspectors of elections, who shall each serve for a term of four years from such first day of May. One member so appointed shall be from the political party which cast the highest number of votes at the last preceding November election for governor, and the other member shall be appointed from the political party which cast the next highest number of votes for such officer at such election. (98 v. 288 § 3.)

Appointment of deputy state supervisors and inspectors.

The provision that the appointment of deputy state supervisors and inspectors of elections shall be made on or before the first day of May is directory, and such appointment if made after such date would be valid. Atty. Gen. 4-22-1908.

Recommendation by party committee.

SECTION 4790. If the executive committees of the two political parties in the county, casting the highest and next highest number of votes in the state at the last preceding November election for state officers, recommend qualified persons to the state supervisor and inspector at least five days before the first day of May, the state supervisor and inspector shall appoint the persons so recommended to the number to which such party is entitled. If no such recommendation is made, the state supervisor and inspector shall make the appointments as provided in this chapter. (98 v. 288 § 3.)

NOTE:—The state supervisor must regard all recommendations of county executive committees of political parties made five days before the first of May, and in case of recommendations by rival committees of the same party must submit the controversy to the state central committee of such party, which has ten days in which to decide. Atty. Gen. 4-22-1908.

When a recommendation for the appointment of a qualified person as deputy state supervisor of elections, signed by the chairman, secretary and members of the county executive committee of a political party that at the present November election cast the highest number of votes for governor or secretary of state, is placed on file, with the state supervisor of elections, within the required time, it is his duty to appoint the person so recommended.

Mandamus is the proper remedy to enforce the performance of that duty. State ex rel. Culbert v. Kinney, Secretary, 63 O. S. 304.

Vacancies.

SECTION 4791. All vacancies shall be filled and all appointments to new terms made from the political party to which the vacating or out-going member belonged, unless there is a third political party which cast a greater number of votes in this state at the next preceding November election for state officers than did the party to which the retiring members belonged, in which event the vacancy shall be filled from such third party. (98 v. 288 § 3.)

Recommendation to fill vacancy.

SECTION 4792. If, within five days after a vacancy occurs in the membership of a board of deputy state supervisors and inspectors, the executive committee of the party entitled to the appointment to fill such vacancy recommends a qualified person to the state supervisor and inspector, he shall appoint such person to fill such vacancy for the unexpired term. If no such recommendation is made, the state supervisor and inspector shall make the appointment as provided in this chapter. (98 v. 288 § 3.)

How rightful committee determined.

SECTION 4793. When recommendations are made to the state supervisor and inspector for appointment to new terms or to fill vacancies in the office of deputy state supervisor and inspector by more than one committee, each claiming to be the rightful executive committee of a political party entitled to recommend qualified persons for appointment on such board, the state supervisor and inspector, before making any such appointment, shall notify the chairman of the state central committee of the political party entitled to such appointment and shall recognize that committee as the rightful executive committee which such state central committee shall certify to be the rightful committee

of such party. If such committee fails to make such certification for ten days from the giving of such notice, the state supervisor and inspector shall determine which of such disputing bodies or committees is the rightful committee of such party, and shall make the appointment, as provided in this chapter. (98 v. 288 § 3.)

SECTION 4794. Biennially, within five days after such appointments are made, the deputy state supervisors and inspectors shall meet and organize by selecting one of their number as chief deputy, who shall preside at all meetings, and two resident electors of the county, other than members of the board, as clerk and deputy clerk, respectively, all of which officers shall continue in office for two years. (98 v. 288 § 3.)

Organization  
of board.

SECTION 4795. The balloting for such officers shall commence at or before one o'clock, afternoon, of the day of the convening, and at least one ballot shall be taken every twenty minutes until such organization is effected, or five ballots have been cast, as hereinafter provided. The clerk shall first be selected by the votes of at least three members. If, after five ballots, no person shall be agreed upon as clerk, the names of all persons so voted for on the fifth ballot, together with the names of the deputies who nominated them, shall be certified to the state supervisor and inspector, who shall designate therefrom one of such persons to serve as clerk and another such person to serve as deputy clerk. The clerk and deputy clerk shall be of opposite political parties, and each such officer shall have been nominated by a deputy state supervisor and inspector of the political party to which he belongs. (98 v. 288 § 3.)

Selection of  
clerk and  
deputy  
clerk.

SECTION 4796. After the selection of the clerk, the chief deputy shall be selected from the deputies of opposite politics to that of the clerk. If, upon the first ballot, no person shall be agreed upon as chief deputy, the deputy of opposite politics to the clerk and having the shortest term to serve shall be chief deputy and preside at all meetings. When such organization is perfected, the clerk shall forthwith report it to the state supervisor and inspector. (98 v. 288 § 3.)

Selection of  
chief deputy.

SECTION 4797. The clerk or deputy clerk may be removed by the state supervisor and inspector or by the deputy state supervisors and inspectors for any violation or neglect of duty or other good and sufficient cause. (98 v. 288 § 3.)

Removal of  
clerk and  
deputy clerk.

SECTION 4798. Vacancies in the offices of chief deputy, clerk and deputy clerk shall be filled in the same manner as original selections are made and be persons belonging to the same political party as that to which the outgoing officer belonged. (98 v. 288 § 3.)

Vacancy in  
offices of  
chief deputy  
and clerk,  
how filled.

SECTION 4799. The deputy clerk of the board of deputy state supervisors and inspectors shall perform such duties and receive such compensation, not exceeding one hundred fifty dollars each month, as shall be determined by the board. (98 v. 288 § 3.)

Duties and  
compensation  
of deputy  
clerk.

Investigation and prosecution of violations of election laws.

SECTION 4800. The board of deputy state supervisors and inspectors shall investigate and prosecute all violations of the laws relating to the registration of electors, the right of suffrage and the conduct of elections, and make report thereof to the state supervisor and inspector. When approved by the state supervisor and inspector and by a vote of a majority of its members, each such board may incur any expense necessary to the conduct of such investigations and prosecutions. (97 v. 233 § 8.)

General powers and duties of board.

SECTION 4801. In addition to the powers and duties conferred upon them by the preceding section, the state supervisor and inspector of elections shall have the rights, powers and duties conferred and imposed by law upon the state supervisor of elections, and boards of deputy state supervisors and inspectors of elections shall have all the rights, powers and duties conferred and imposed by law upon boards of deputy state supervisors of elections, as hereinafter provided. (98 v. 288 § 3.)

How term "state supervisor" and "clerk" construed.

SECTION 4802. In this title and other laws relating to elections, unless otherwise expressly provided therein, the term "state supervisor" shall apply to the state supervisor and inspector equally with the state supervisor, the term "deputy state supervisors" shall apply to deputy state supervisors and inspectors of elections equally with deputy state supervisors of elections, the term "board of deputy state supervisors of elections" shall apply to the board of deputy state supervisors and inspectors of elections equally with the board of deputy state supervisors of elections, and the term "clerk" shall apply to the clerk of the board of deputy state supervisors and inspectors of elections equally with the clerk of the board of deputy state supervisors of elections. (98 v. 288 § 3.)

#### DEPUTY STATE SUPERVISORS.

Board of deputy state supervisors.

SECTION 4803. Except in counties containing cities wherein annual general registration of electors is required by law, or which contains two or more cities in which registration is required by law, there shall be a board of deputy state supervisors of elections for each county consisting of four members who shall be qualified electors. (102 v. 98.)

Appointment of deputy state supervisors; term.

SECTION 4804. On or before the first Monday in August, 1913, the state supervisor of elections shall appoint for each such county two members of the board of deputy state supervisors of elections, who shall each serve until the first day of May, 1916, and whose successors shall then be appointed and serve for a term of two years from and after such date. And on or before the first Monday in August, 1914, such state supervisor of elections shall appoint for each such county two members of the board of deputy state supervisors of elections who shall each serve until the first day of May in the year 1917, and whose suc-

cessors shall then be appointed and serve for a term of two years from and after such date. One member so appointed shall be from the political party which cast the highest number of votes at the last preceding November election for governor, and the other member shall be appointed from the political party which cast the next highest number of votes for such officer at such election. (103 v. 215.)

SECTION 4805. For the terms fixed by the preceding section to begin on the first Monday in August, if the executive committee of the two political parties in the county casting the highest and next highest number of votes in the state at the last preceding November election for state officers recommend qualified persons to the state supervisor at least fifteen days before the first day of August, the state supervisor shall appoint the persons so recommended to the number to which each such party is entitled, and for the terms fixed by the preceding section to begin on the first day of May if the executive committee of the two political parties in the county casting the highest and next highest number of votes in the state at the last preceding November election for state officers recommend qualified persons to the state supervisor at least fifteen days before the first day of May, the state supervisor shall appoint the persons so recommended to the number to which each such party is entitled. (103 v. 215.)

Recommendation by party committee.

NOTE:—When a recommendation for the appointment of a qualified person as deputy state supervisor of elections, signed by the chairman, secretary and members of the county executive committee of a political party that at the present November election cast the highest number of votes for governor or secretary of state, is placed on file, with the state supervisor of elections, within the required time, it is his duty to appoint the person so recommended.

Mandamus is the proper remedy to enforce the performance of that duty.

State Ex rel. Culbert v. Kinney, Secretary, 63 O. S. 304.

SECTION 4806. All vacancies shall be filled and all appointments to new terms shall be made from the political party to which the vacating or out-going member belongs, unless there is a third political party which, at the next preceding November election for state officers, cast a greater number of votes in the state than did the party to which the retiring member belonged, in which event the vacancy shall be filled from such third party. (98 v. 288 § 3.)

Vacancies.

SECTION 4807. If, within five days after such vacancy occurs in the membership of a board of deputy state supervisors, the executive committee of the party entitled to the appointment to fill such vacancy recommends a qualified person to the state supervisor, he shall appoint such person to fill such vacancy for the unexpired term. If no such recommendation is made, the state supervisor shall make the appointment as provided in this chapter. (98 v. 288 § 3.)

Recommendations to fill vacancy.

How rightful executive committee determined.

SECTION 4808. When recommendations are made to the state supervisor for appointment to new terms or to fill vacancies in the office of deputy state supervisor by more than one committee, each claiming to be the rightful executive committee of a political party entitled to recommend qualified persons for appointment on such board, such state supervisor, before making any such appointment, shall notify the chairman of the state central committee of the political party entitled to such appointment, and he shall recognize that committee as the rightful executive committee which such state central committee shall certify to be the rightful committee of such party. If such committee fails to make such certification for ten days from the giving of such notice, the state supervisor shall determine which of such disputing bodies or committees is the rightful committee of such party and shall make the appointment as provided in this chapter. (98 v. 288 § 3.)

NOTE:— The board of deputy supervisors is without authority to ignore the committee recognized by the state central committee. State ex rel. Hechler v. Fitzgerald et al., 77 O. S. 641.

Oath of deputy state supervisor.

SECTION 4809. Before entering upon his duties, each deputy state supervisor of elections shall appear before a person authorized to administer oaths and take and subscribe to the following oath, which shall be filed with the clerk of the court of common pleas in the county where such deputy resides:

State of Ohio, ..... county, ss.

I do solemnly swear that I will support the constitution of the United States and of the state of Ohio, and perform the duties of deputy state supervisor of elections to the best of my ability.

Signed.....

Sworn to and subscribed before me this..... day of....., in the year.....

(Title of officer.)

(91 v. 120 § 7.)

Removal of deputy state supervisor.

SECTION 4810. Any deputy state supervisor may be removed by the state supervisor for misfeasance or malfeasance in office or other good and sufficient cause. In filling vacancies caused by removal, if no person belonging to the political party of the person removed can be induced to accept such appointment, the vacancy can be filled by appointment from another political party. (98 v. 288 § 3.)

NOTE:— The state supervisor has no authority to remove a member of the board, except for misfeasance or malfeasance in office, or other good and sufficient cause.

Organization of board.

SECTION 4811. Within fifteen days after such appointments in each year, the deputy state supervisors shall meet in the office of the county commissioners and organize by selecting one of their number as chief deputy, who shall preside at all meetings, and a resident elector of such

county, other than a member of the board, as clerk, both of which officers shall continue in office for one year. (R. S. Sec. 2966-4.)

SECTION 4812. The balloting for such officer shall commence at or before one o'clock afternoon on the day of convening, and at least one ballot shall be taken every twenty minutes until such organization is effected. The clerk shall be first selected by the votes of at least three members. If, after five ballots, no person shall be agreed upon as clerk, the clerk shall be selected by lot from two persons of opposite politics, to be nominated by the deputy supervisors, the two deputy supervisors of the same politics to name one candidate for clerk and the two deputies of opposite politics to name the other. (R. S. Sec. 2966-4.)

Selection of clerk.

NOTE:—A justice of the peace may serve as clerk of the board of deputy state supervisors of elections. Atty. Gen. 11-30-1909.

SECTION 4813. After the selection of the clerk, the chief deputy shall be selected from deputies of opposite politics to that of the clerk. If, upon the first ballot, no person shall be agreed upon as chief deputy, the deputy of opposite politics to the clerk, having the shortest term to serve, shall be chief deputy and preside at all meetings. When such organization is perfected, the clerk shall forthwith report it to the state supervisor. (R. S. Sec. 2966-4.)

Selection of chief deputy.

SECTION 4814. Before entering upon his duties, the clerk of the board of deputy state supervisors of elections for each county shall take and subscribe the following oath, which shall be filed with the clerk of the court of common pleas of the county where he resides:

Oath of clerk.

State of Ohio, ..... county, ss.

I do solemnly swear that I will support the constitution of the United States and of the state of Ohio and discharge the duties of a clerk of the board of deputy state supervisors for.....county to the best of my ability and preserve all records, documents and other property pertaining to the conduct of elections placed in my custody.

Signed.....

Sworn to and subscribed before me this..... day of ..... in the year .....

.....

(Title of officer.)

(91 v. 120 § 7.)

SECTION 4815. The clerk may be removed by the state supervisor or deputy state supervisors, for any violation or neglect of duty or other good and sufficient cause, and such vacancy shall be filled by the deputy state supervisors from the political party to which such outgoing clerk belongs. (R. S. Sec. 2966-4.)

Removal of clerk.

SECTION 4816. The clerk may administer oaths to such persons as are required by law to file certificates or other papers with the board, to judges and clerks of elec-

Clerk may administer oaths.

tion, and to witnesses who may be called to testify before the board. (R. S. Sec. 2966-4.)

Board shall meet before each election.

SECTION 4817. The board of deputy state supervisors shall meet on the twelfth day before each election, and remain in session for such time as may be necessary, and adjourn to such day as their duties prescribed by law may require. (R. S. Sec. 2966-4.)

NOTE:—It is the duty of the board to have a sufficient and proper room or office in which to transact the business of the board, and it is also the duty of the board to file and carefully keep all papers, documents and supplies filed with such board and necessary in the performance of his duties. For this purpose a proper desk and files, together with proper and necessary furniture for such room or office must be provided. The reasonable rent of such room or office, unless furnished by the commissioners at the Court House, together with the expense of such furniture, desk and files, are proper charges against the county, and should be paid out of the county treasury upon the order of the County Commissioners as other county expenses.

Certificates of nominations and nomination papers.

SECTION 4818. The state supervisor and the deputy state supervisors shall receive and file certificates of nominations and nomination papers, pass upon the validity thereof and certify them as provided by law. (97 v. 223 § 8.)

General duties of deputy state supervisors.

SECTION 4819. The deputy state supervisors for each county shall advertise and let the printing of the ballots, cards of instruction and other required books and papers to be printed by the county; receive the ballots from the printer, and cause them to be securely sealed up in their presence in packages, one for each precinct, containing the designated number of ballots for each precinct, and make the necessary indorsements thereon as provided by law; provide for the delivery of ballots, poll books and other required books and papers at the polling places in the several precincts; cause the polling places to be suitably provided with booths, guard rails and other supplies, as provided by law, and provide for the care and custody of them during the intervals between elections; receive the returns of elections, canvass them, make abstracts thereof, and transmit such abstracts to the proper officers at the times and in the manner provided by law, and issue certificates to persons entitled to them. (97 v. 223 § 8.)

Certificates of election may be issued after time within which returns must be made has expired. Atty. Gen. 12-24-1907.

Investigation of violations of election laws.

SECTION 4820. The board of deputy state supervisors of each county shall investigate all irregularities or non-performance of duty by an election officer that may be reported to it, or that comes to its knowledge and report the facts to the state supervisor of elections and to the prosecuting attorney of the county. The state supervisor or the board of deputy state supervisors shall order the prosecution of all offenses for violations of this title or any of

the laws of the state relating to the conduct of elections. (91 v. 121 § 9a.)

SECTION 4821. All proper and necessary expenses of the board of deputy state supervisors shall be paid from the county treasury as other county expenses, and the county commissioners shall make the necessary levy to provide therefor. In counties containing annual general registration cities, such expenses shall include expenses duly authorized and incurred in the investigation and prosecution of offenses against laws relating to the registration of electors, the right of suffrage and the conduct of elections. (R. S. Sec. 2966-4.)

Necessary expenses of the board.

NOTE:—“Proper and necessary expenses of the board” applies to the expenses of the board as a whole, and cannot be made to apply to personal expenses or mileage of the members of the board in their attendance upon meetings.

The necessary expenses of the chief deputy and clerk while in attendance upon a meeting of the district board for the purpose of hearing objections arising in the course of the nomination of candidates of said district, may be allowed and paid as “proper and necessary expenses of the board,” but no additional compensation can be allowed such officers in excess of the annual compensation otherwise authorized by law.

There is no provision for payment of compensation in such case, other than for “necessary expenses.”

“All proper necessary expenses of such board, etc.,” does not include the expenses of the individual members of the board in traveling from their homes to the place of meeting of the board or otherwise incurred in attending such meeting.

Expense of members of board of deputy state supervisors of elections may be paid only upon allowance by county commissioners. Atty. Gen. 8-19-1907.

The question of employing clerks to assist the board of elections in canvassing and tabulating returns is for the deputy state supervisors and the county commissioners to determine. Atty. Gen. 11-12-1908.

The compensation for a necessary assistant to the board of deputy state supervisors of elections may be allowed and paid as necessary expenses; but the County Auditor cannot issue his warrant on the treasurer to pay for such service unless the amount has first been allowed by the County Commissioners. State ex rel. v. Craig, 21 C. C. 180.

SECTION 4822. Each deputy state supervisor shall receive for his services the sum of three dollars for each election precinct in his respective county, and the clerk shall receive for his services the sum of four dollars for each election precinct in his respective county. The compensation so allowed such officers during any year shall be determined by the number of precincts in such county at the November election of the next preceding year. The compensation paid to each of such deputy state supervisors under this section shall in no case be less than one hundred dollars each year and the compensation paid to the clerk shall in no case be less than one hundred and twenty-five dollars each year. Such compensation shall be paid quarterly from the general revenue fund of the county upon vouchers of the board, made and certified by the chief deputy and the clerk thereof. Upon presentation of any

Compensation of members and clerks.

such voucher, the county auditor shall issue his warrant upon the county treasurer for the amount thereof, and the treasurer shall pay it. (R. S. Sec. 2966-4.)

NOTE:— The compensation provided by this section is a yearly compensation including special as well as general elections. Atty. Gen. 11-12-1908.

If the number of precincts is increased at the November election in any year, such increased number of precincts shall not be regarded in fixing the compensation of the deputy supervisors for that official year, but the whole number of precincts, including such increase, shall be the basis for their compensation for the next succeeding official year. Atty. Gen. 1-21-1910.

Collation and  
publication of  
election laws.

SECTION 4823. The secretary of state shall collate and publish from time to time all the election laws in force, applicable to the conduct of elections. A sufficient number of copies of such election laws shall be printed, bound in paper and distributed in proportion to the number of voting precincts in each county. Such distribution shall be made in each county by the deputy state supervisors thereof. (97 v. 222 § 5.)

## CHAPTER 2.

### TIME AND NOTICE OF ELECTIONS.

ELECTIONS IN EVEN NUMBERED YEARS.	ELECTIONS IN ODD NUMBERED YEARS.
<p>SECTION</p> <p>4824. Electors of president and vice president.</p> <p>4825. Sheriff shall issue proclamation of election.</p> <p>4826. Time of holding elections for elective state and county offices; vote for judge void, when.</p> <p>4827. Sheriff shall issue proclamation of election.</p> <p>4828. Time of congressional elections.</p> <p>4828-2. Election of U. S. senators by the electors of the state; notice of election.</p> <p>4828-3. Vacancy in representation in U. S. senate; special election.</p> <p>4829. Vacancy in office of congressman or member of general assembly.</p> <p>4830. Fees of sheriff.</p>	<p>SECTION</p> <p>4831. Township officers and justices of the peace.</p> <p>4832. Notice of township election.</p> <p>4833. How notice served.</p> <p>4834. Notice of elections in precincts.</p> <p>4835. Judges of superior court of Cincinnati.</p> <p>4836. Election of municipal officers.</p> <p>4837. Mayor shall issue proclamation of election.</p> <p>4838. Election of members of the board of education.</p> <p>4839. Notice of school elections.</p> <p style="text-align: center;">PROVISIONS APPLICABLE EACH YEAR.</p> <p>4840. Submission of question when special election not provided for.</p> <p>4841. Proclamation as to sale of liquors on election day.</p>

#### ELECTIONS IN EVEN NUMBERED YEARS.

SECTION 4824. On the first Tuesday after the first Monday in November in the year 1912, and every four years thereafter, the qualified electors shall elect a number of electors of president and vice president of the United States equal to the number of senators and representatives this state may be entitled to in the congress of the United States. No senator or representatives in congress or other person holding an office of trust or profit under the United States or any law thereof shall be eligible as elector of president or vice president. (R. S. Sec. 2968.)

Electors of president and vice president.

SECTION 4825. At least fifteen days before the time for holding the election provided for in the preceding section, the sheriff shall give public notice by proclamation through his county of the time and place of holding such election and the number of electors to be chosen. A copy of such proclamation shall be posted at each of the places where elections are appointed to be held and inserted in a newspaper published in the county. (R. S. Sec. 2967.)

Sheriff shall issue proclamation of election.

SECTION 4826. All general elections for elective state and county offices and for the office of judge of the court of appeals shall be held on the first Tuesday after the first Monday of November in the even numbered years. All votes for any judge for an elective office except a judicial office, under the authority of this state, given by the general assembly, or by the people, shall be void. (103 v. 23.)

Time of holding elections for elective state and county offices.

Vote for judge void, when.

SECTION 4827. At least fifteen days before the holding of any such general election, the sheriff of each county shall give notice by proclamation throughout his county of the time and place of holding such election and the officers at that time to be chosen. One copy of the proclamation shall be posted at each place where elections are appointed

Sheriff shall issue proclamation of election.

to be held, and such proclamation shall also be inserted in a newspaper published in the county. (R. S. Sec. 2977.)

NOTE:—The sheriff is not required to make proclamation of election for township and municipal officers. Atty. Gen. 9-25-1907.

Notice of the submission of any question to be voted upon should be embodied in the proclamation. See Sec. 4840 G. C.

Though the neglect of a Sheriff by proclamation, to give notice of an election may be competent evidence, in connection with other circumstances, to prove fraud, or conspiracy on the ground of which an election is contested, such neglect is not conclusive of the invalidity of an election.

State ex rel. Attorney General v. Taylor, 15 O. S. 137.

A proceeding in mandamus to compel the Sheriff to give notice and make proclamation to the qualified voters of a county to elect a judge of the court of common pleas therein is properly instituted upon the relation of an elector of such county.

State v. Brown, 38 O. S. 344.

As to the Sheriff's proclamation, see further Foster v. Scarff, 15 O. S. 532.

Time of congressional elections.

SECTION 4828. Biennially, on the first Tuesday after the first Monday in November in the even-numbered years, the electors of each congressional district shall vote for a representative in the congress of the United States for the term commencing on the fourth day of March next thereafter. (R. S. Sec. 2979.)

NOTE:—Section 4828-1 provides for the apportionment of congressional districts for Ohio under the thirteenth census of the United States (106 v. 474).

Election of United States Senators by the electors of the state. Notice of election.

SEC. 4828-2. On the first Tuesday after the first Monday in November, 1914, and every sixth year thereafter, and on the first Tuesday after the first Monday in November, 1916, and every sixth year thereafter, the electors of the state shall vote for a member of the senate of the United States, each for the term commencing on the 4th day of March next succeeding his election. Notice of such elections shall be given by the proper sheriffs of the several counties of the state at the same time and in the same manner as is provided for in section 4827 for the election of state officers. (104 v. 8.)

Vacancy in representation in the U. S. senate, how filled. Special election.

SEC. 4828-3. When by death, resignation or otherwise, a vacancy occurs in the representation of this state in the senate of the United States, the same shall be filled forthwith by appointment by the governor who shall have power to appoint to fill such vacancy some suitable person having the necessary qualifications for senator, which appointee shall hold office until the fifteenth day of December next succeeding the next election of state officers which occurs more than one hundred and eighty days after such vacancy happens. At such next election of state officers a special election to fill such vacancy in the office of United States senator shall be held, which special election shall be governed in all respects by the laws of this state controlling regular elections for such office. Candidates to be voted for

at such special election shall be nominated in the same manner as is provided for the nomination of candidates at regular elections. At least one hundred and eighty days prior to the date of such election of state officers the governor shall issue a writ, directing that a special election be held to fill such vacancy as herein provided. Such writ shall be directed to the state supervisor of elections and a copy thereof sent by mail to the sheriff of each county in the state who shall give notice of the time and place of holding such special election in the same manner and at the same time provided in section 4827 for giving similar notice for regular elections. (104 v. 8.)

Writ issued by governor directing special election to state supervisor of elections. Copy to sheriffs.

SECTION 4829. When a vacancy in the office of representative to congress or senator or representative to the general assembly occurs, the governor, upon satisfactory information thereof, shall issue a writ of election, directing that a special election be held to fill such vacancy in the territory entitled to fill it on a day specified in the writ. Such writ shall be directed to the sheriff or sheriffs, within such territory who shall give notice of the time and places of holding such election as in other cases. Such election shall be held and conducted and returns thereof made as in case of a regular election. (R. S. Sec. 2988. )

Vacancy in office of congressman or member of general assembly.

SECTION 4830. For services performed under this title the sheriff shall receive the following fees: From the county treasury to be credited to his fee fund: For advertising the election, twenty-five cents for each election precinct but not less than fifty cents for each township in the county. Mileage at the rate of eight cents a mile for the distance actually traveled. (102 v. 287.)

Fees of sheriff.

ELECTION IN ODD NUMBERED YEARS.

SECTION 4831. Township officers and justices of the peace shall be chosen by the electors of each township on the first Tuesday after the first Monday in November in the odd numbered years. (R. S. Sec. 1442.)

Township officers and justices of the peace.

NOTE: — The electors of an incorporated village located within a township, are entitled to participate in the election of township officers, and such officers may or may not be residents of the municipality. Atty. Gen. 12-30-1909. See also Halsey et al. v. Ward, 17 O. S. 543.

SECTION 4832. At least twenty days before the regular election for township officers, the township trustees shall issue their warrant to a constable of the township, directing him to notify the electors of the township to assemble at the time and place appointed for the regular election. The warrant shall enumerate the officers to be chosen at the election. On application of two or more freeholders of the township for that purpose, the trustees shall insert in the warrant such other question, if any, as may be proposed to be submitted at such election. (R. S. Sec. 1445.)

Notice of township election.

NOTE: — An election will not be declared void because the notice required by statute was not given for the full length of

time specified, when it appears that the great body of electors had actual notice of and participated in the election.

Harpster v. Brower, et al., 5 C. C. 395.

See Sec. 4840 G. C.

How notice served.

SECTION 4833. The constable who receives such warrant shall notify the electors of the township by posting copies of the warrant in at least three public places in the township at least ten days before the meeting of the electors. If the office of one or more of the trustees is vacant, the township clerk, together with the trustee or trustees in office, shall issue such warrant. (R. S. Sec. 1446.)

Notice of elections in precincts.

SECTION 4834. In townships which have been divided, the trustees shall give fifteen days' notice of the time and place of holding elections in the precincts of such townships by posting written or printed notices in such number of places as to them seem proper for the general information of the electors of the several precincts. (R. S. Sec. 1392.)

Judges of superior court of Cincinnati.

SECTION 4835. The judges of the superior court of Cincinnati shall be elected by the electors of the city of Cincinnati on the first Tuesday after the first Monday of November of each odd-numbered year preceding that in which the term of any such judge expires. (R. S. Sec. 483.)

Election of municipal officers.

SECTION 4836. All elective municipal officers and judges and clerks of police courts and assessors in municipalities shall be chosen on the first Tuesday after the first Monday in November in the odd-numbered years. (98 v. 172 § 222.)

Mayor shall issue proclamation of election.

SECTION 4837. Previous to any election for municipal officers, the mayor shall issue a proclamation to the electors of the corporation or of the respective wards or districts thereof, as the case may require, setting forth the time and places of election and the officers to be chosen, and cause such proclamation to be published in a newspaper printed in the corporation at least ten days previous to the election. If no such newspaper is published in the corporation, such notice may be given by posters. (R. S. Sec. 1726.)

NOTE: — See Sec. 4840 G. C.

Election of members of the board of education.

SECTION 4838. All elections for members of boards of education shall be held on the first Tuesday after the first Monday in November in the odd-numbered years. (97 v. 40 § 2.)

Notice of school elections.

SECTION 4839. The clerk of each board of education shall publish a notice of all school elections in a newspaper of general circulation in the district or post written or printed notices thereof in five public places in the district at least ten days before the holding of such election. Such notices shall specify the time and place of the election, the number of members of the board of education to be elected, and the term for which they are to be elected, or the nature of the question to be voted upon. (97 v. 354 § 2.)

## PROVISIONS APPLICABLE EACH YEAR.

SECTION 4840. Unless a statute providing for the submission of a question to the voters of a county, township, city or village provides for the calling of a special election for that purpose, no special election shall be so called. The question so to be voted upon shall be submitted at a regular election in such county, township, city or village, and notice that such question is to be voted upon shall be embodied in the proclamation for such election. (90 v. 130 § 2.)

Submission of question when special election not provided for.

NOTE:—Where a question is submitted to the voters of a township or other subdivision, such as the question of the issue of a tax levy, such question should be printed upon a separate ballot and deposited in a separate ballot box presided over by the regular judges and clerks of election. See Sec. 5020 G. C.

Where an act providing for the submission of the question of issuing bonds for a county soldiers' and sailors' memorial to a vote of the electors of the county, makes no provision for a special election and no provision as to the manner of submitting such question, but merely directs that it be submitted to the "popular vote at the next regular county election," the submission of such question at the next general state and county election is not a separate election, but is the submission of a question at the general election as provided by Secs. 2996-2 and 2966-32 Rev. Stat., and the deputy state supervisors of elections are not entitled to any additional compensation for so submitting such question.

State ex rel. v. Jones, 14 O. D. 109.

A special election may be held upon the date of a primary election and by the same judges and clerks. Atty. Gen. 4-25-10.

SECTION 4841. Three days previous to and on the day of any election, the mayor shall issue a proclamation to the public setting forth therein the substance of the enactment to prohibit the sale of intoxicating liquors upon that day, and he shall take proper measures for the enforcement of such enactments. (R. S. Sec. 1838.)

Proclamation as to sale of liquors on election day.

NOTE:—On any day on which an election is held under the general election laws saloons must be closed within the district or political subdivisions for which such election is held. Atty. Gen. 12-7-1908.

The mayor should publish his proclamation respecting the closing of saloons on the day of holding the primary election. Atty. Gen. 8-31-1909.

## CHAPTER 3. ELECTION PRECINCTS.

### SECTION

- 4842. Township precincts.
- 4843. Municipal precincts.
- 4844. Where elections for precincts held.
- 4845. Precincts with four hundred votes or more may be divided.
- 4846. When township precinct with less number of votes may be divided.
- 4847. Precincts may be rearranged or combined.
- 4848. Exceptions.
- 4849. Hearing in case of division or change of precincts.
- 4849-1. State or national home a separate election precinct.
- 4849 2. Subdividing and rearranging precincts.
- 4849-3. Fixing places for holding elections and furnishing equipment.
- 4849-4. How expenses shall be paid.

### SECTION

- 4849-5. Laws governing elections.
- 4850. What preceding section shall not affect.
- 4851. Precincts in registration cities.
- 4852. Ballot boxes and custody thereof.

### PRECINCT OFFICERS.

- 4853. Appointment of judges and clerks; presiding judge.
- 4854. Terms of judges and clerks; vacancies.
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- 4857. Appointments for unexpired terms.
- 4858. Judges and clerks may be removed.
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- 4860. Compensation.

Township precincts.

SECTION 4842. Each township, exclusive of the territory embraced within the limits of a municipal corporation, shall compose an election precinct, unless such township is divided according to law into precincts. (R. S. Sec. 2923.)

Municipal precincts.

SECTION 4843. Each municipal corporation, containing fifty or more voters, shall compose an election precinct, unless such corporation is divided according to law into precincts. If a municipal corporation is situated in two or more townships or counties, the territory of such corporation situated in each township or county, together with such territory as may be attached thereto for voting purposes, shall constitute at least one election precinct, if there are fifty or more voters therein. Territory annexed to a village for school purposes may be included within a village precinct, if the deputy state supervisors are of the opinion it is practicable and most convenient to the voters. Each ward of a city shall compose one election precinct, unless it is divided according to law into precincts. (R. S. Sec. 2923, 2966-15.)

Where elections for precincts held.

SECTION 4844. Elections shall be held for each township precinct at such place within the township as the trustees thereof shall determine to be most convenient of access for the voters of the precinct. Elections shall be held for each municipal or ward precinct at such place as the council of the corporation shall designate. In registration cities, the deputy state supervisors shall designate the places of holding elections in each precinct. (R. S. Sec. 2923.)

Precincts with four hundred votes or more may be divided.

SECTION 4845. When four hundred votes or more have been cast at the last preceding November election in a municipality where registration is not required or in any ward or precinct thereof, and when such number of votes have been cast at such election in a township or precinct

thereof, such municipality, township, ward or precinct may, or when a majority of the voters petition therefor shall, be divided by the deputy state supervisors, as hereinafter provided, into two or more election precincts, so as to limit the number of voters in each ward or precinct to two hundred, as nearly as may be practicable. (R. S. Sec. 2966-15.)

SECTION 4846. A township wherein less than four hundred votes were cast at the last preceding November election may be divided into two election precincts, as hereinafter provided, if a majority of the voters therein petition therefor and the deputy state supervisors are of the opinion that such division is necessary. (R. S. Sec. 2966-15.)

When township precinct with less number of votes may be divided

SECTION 4847. From time to time any or all of such precincts may be re-arranged, subdivided or combined as often as may be deemed necessary or the convenience of electors and the prompt and correct conduct of elections may require. (R. S. Sec. 2966-15.)

Precincts may be arranged or combined.

SECTION 4848. No precinct so created shall contain less than one hundred and fifty voters, except a township precinct may contain seventy-five voters, and a municipality, or the part thereof in each township, containing fifty or more voters shall compose at least one voting precinct, as hereinbefore provided. (R. S. Sec. 2966-15.)

Exceptions.

SECTION 4849. At least thirty days previous to any election, the deputy state supervisors shall give ten days' notice by publication in two papers of opposite politics published in the county that the question whether the township, ward, or precinct shall be divided, changed or combined will be considered on a day named in the notice. On such day or some subsequent day to which the matter may be adjourned, the question of dividing, changing or combining such precinct shall be heard. If there are no remonstrances against such division, change or combination, the deputy state supervisor shall declare in favor thereof and designate the precincts so established. If twelve electors of such precinct remonstrate against such division, change or combination, the matter shall be heard and determined, and such order made for or against such division, change or combination, as is deemed proper. (R. S. Sec. 2966-15.)

Hearing in case of division or change of precincts.

SECTION 4849-1. That in any township or townships wherein is located, or may hereafter be located, a state or a national home for disabled volunteer soldiers, the lands owned and used for said institution shall be and constitute a separate election precinct. (106 v. 450.)

State or national home a separate election precinct.

SECTION 4849-2. The deputy state supervisors or the deputy state supervisors and inspectors of elections, as the case may be, of the county wherein said institution is, or may be, located, may subdivide said precinct, or re-arrange or combine the sub-division of said precinct, as often as may be deemed necessary for the convenience of electors and the prompt and correct conduct of elections may require, in the manner provided by law for other township precincts. The provisions of section 5175-26, of the General Code, as amended April 16, 1913, (O. L. 104) insofar as they re-

Subdividing and rearranging precincts.

Hauling inmates to polls not corrupt practice.

late to the hauling of persons to the polls, shall not apply to inmates of soldiers' homes. (106 v. 450.)

Fixing places for holding elections and furnishing equipment.

SECTION 4849-3. The said deputy state supervisors or supervisors and inspectors, as the case may be, shall fix the places of holding all elections in said precincts, provided that the polling places shall be located outside the grounds of said institution, and within one hundred feet thereof; shall appoint judges and clerks of election, provide and preserve suitable booths, ballot boxes, and equipment in the manner they are authorized to do in registration cities; and do and perform the duties required by law of township trustees insofar as the holding of elections in said precincts is concerned. (106 v. 450.)

How expenses shall be paid.

SECTION 4859-4. The expenses of all elections held in said precincts, including election officers, booths, ballot-boxes, equipment and supplies, shall be paid by the county commissioners, as other county election expenses are paid; and said expenses shall not be a charge upon the township as provided in sections 4991 and 5053 of the General Code.

Laws governing elections.

SECTION 4849-5. Except as herein provided the elections in said precincts shall be governed by the same laws as relate to elections in townships. (106 v. 450.)

What preceding section shall not affect.

SECTION 4850. Nothing in the preceding sections shall affect the powers or duties of boards of deputy state supervisors in reference to the division of election precincts within registration cities. The division of any election precinct into two or more subdivisions, as hereinbefore provided, shall not require the election of an assessor in each such subdivision, but in all such election precinct subdivisions there shall be elected one assessor for each original precinct unless such supervisors at the time of the division shall order that an assessor be elected in each precinct. (R. S. Sec. 2966-15.)

Precincts in registration cities.

SECTION 4851. In cities in which registration is required by law, when five hundred votes or more have been cast at the last preceding election in any ward or in any precinct in any ward, such ward or election precinct shall be divided by the board of deputy state supervisors of the county into two or more election precincts so as to limit the number of votes in each ward or precinct to two hundred fifty as nearly as may be practicable. From time to time thereafter, such board shall re-arrange, subdivide or combine precincts as often as it may deem such action necessary to secure the convenience of electors and the prompt and correct conduct of elections. But no precinct so created shall contain less than two hundred voters. (R. S. Sec. 2926.)

Ballot boxes and custody thereof.

SECTION 4852. The deputy state supervisors of each county shall cause to be provided at the expense of the county a ballot box for each election precinct therein, and cause it to be deposited with the proper township or village clerk or city auditor. Each such officer shall cause a ballot box with a copy of this title to be delivered at each place of holding elections in his township or corporation as

often as elections are held therein. After such election, such ballot box shall be forthwith returned to him by the judges of election for safekeeping. In registration cities, the care of the ballot boxes to be used at any election shall devolve upon the board of deputy state supervisors. (R. S. Sec. 2928.)

PRECINCT OFFICERS.

SECTION 4853. At least ten days before any general election, the deputy state supervisors of each county shall appoint for each precinct in which the voters are not registered four judges and two clerks of elections, residents of the precinct, who shall constitute the election officers of such precinct. The deputy state supervisors shall designate one judge in each precinct to act as presiding judge, who shall be selected from the dominant party in the precinct, as determined by the next preceding November election. (97 v. 222 § 6.)

Appointment  
of judges  
and clerks:  
presiding  
judge.

“DOMINANT PARTY” — DEFINED.

NOTE:—

HON. CARMEL A. THOMPSON, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I beg to acknowledge receipt of your letter of September 16th, in which you request my opinion upon a question presented by Mr. Harry M. Loth, member of the board of state supervisors of elections for Auglaize county. Mr. Loth's question is as follows:

“What is the meaning of the phrase ‘dominant party,’ as employed in section 2966-6 Revised Statutes, in describing the qualifications of the presiding judge in each precinct, and how is such definition to be applied in making appointments for the election in November, 1909, the last general election having been a presidential one?”

Section 2966-6 Revised Statutes is section 6 of the supervisory election law so-called, 97 O. L. 218. The pertinent provision thereof is as follows:

“The deputy supervisors shall designate one judge in each precinct who shall be selected from the dominant party in such precinct, as determined by the next preceding November election, to act as presiding judge.”

This section is in *pari materia* with section 2966-3, being section 3 of the same act, which provides for the appointment of the deputy state supervisors of elections. Among other provisions therein are the following:

“One member (of the board of deputy state supervisors of elections) so appointed \* \* \* shall be from the political party which cast the highest number of votes at the last preceding November election for governor or secretary of state \* \* \*.”

“Appointments shall be made from two political parties which cast the highest and next highest number of votes at the last preceding November election for governor or secretary of state.”

The phrase “dominant party” being nowhere specifically defined, it is my opinion that it should be construed in the light of the clauses last above quoted, and that in ascertaining such “dominant party” in a given precinct for the election in November, 1909, the deputy state supervisors should be guided by the vote cast

for governor in 1908. That cast for secretary of state may be disregarded, as the law was evidently framed to fit conditions as they were when there were annual elections for state officers, and the candidates for governor and secretary of state appeared alternately at the head of each ticket.

Yours very truly,

U. G. DENMAN,  
*Attorney General.*

That part of section 2966-6 Revised Statutes above referred to was enacted into section 4853 of the General Code, and that part of section 2966-3 of the same act was enacted into section 4804 of the General Code.

Following the above opinion of U. G. Denman, Attorney General, the ruling of the State Supervisor of Elections is that in ascertaining the dominant party in a given precinct for the election in November, 1911, the deputy state supervisors should be guided by the vote cast for Governor in 1910.

Judges and clerks of elections should be selected from "political parties," within the meaning of this section. The board may in its descretion appoint a judge or clerk from a political party other than the two political parties which cast the highest and next highest number of votes in the precincts at the next preceding November election.

A member of a board of deputy state supervisors is not eligible to serve as a judge or clerk of elections or registrar of a precinct within the jurisdiction of such board.

There must be four judges and two clerks of elections in each township precinct, who must be divided numerically among the political parties, but if a sufficient number do not reside in the precinct they may be selected from other precincts. Atty. Gen. 10-20-1908.

This section does not authorize the employment of more than two clerks of election in each voting booth. Atty. Gen. 10-25-1909.

In the absence of statutory direction as to the manner of notice, the custom of mailing to each judge and clerk his certificate of appointment should govern. It is doubtful whether the deputy supervisors may incur unusual expense for this purpose. Atty. Gen. 1-21-1910.

Terms of  
judges and  
clerks; va-  
cancies.

SECTION 4854. The terms of the judges and clerks shall terminate at the end of one year from the date of their appointment, at which time their successors shall be appointed to similar terms of office as herein provided. Not more than two judges and not more than one clerk shall belong to the same political party. If a judge or clerk in a precinct fails to appear on the morning of election, the electors present shall viva voce choose a suitable person, having the qualifications of an elector, to fill the vacancy, who shall be from the political party to which the absent judge or clerk belongs. (97 v. 222 § 6.)

NOTE: — The terms of judges and clerks cannot extend beyond, nor can such officers hold over beyond a year from their appointment.

Oath of  
judges and  
clerks.

SECTION 4855. The judges and clerks of election shall each take and subscribe to the following oath, which, upon request of the person appointed, shall be administered without compensation by a person authorized to administer oaths and which shall be filed with the clerk of the board of deputy state supervisors:

State of Ohio, ..... county, ss.

I do solemnly swear that I will support the constitution of the United States and of the state of Ohio, and to the best of my ability discharge the duties of judge ..... clerk ..... of the election in and for precinct ..... township, ..... county, at the next ensuing election, and I further swear that if, in the discharge of my official duties, I gain knowledge as to how any elector voted at such election, I will not disclose it.

Signed .....

Sworn to and subscribed before me this ..... day of ....., in the year ....

(91 v. 120 § 7.)

(Title of officer.)

SECTION 4856. The judges and clerks of elections may be sworn by the clerk of the board or a member thereof, and the presiding judge may administer the oath to the other election officers of his ward, township or precinct. (97 v. 222 § 6.)

What officers may administer oaths to judges and clerks.

SECTION 4857. When new precincts have been created or vacancies exist, the deputy state supervisors, at least ten days before any regular election, shall appoint judges and clerks of elections for such precinct, who shall serve for the unexpired terms. (97 v. 222 § 6.)

Appointments for unexpired terms.

SECTION 4858. The judges and clerks of election appointed as provided in this chapter may be summarily removed from office at any time by the board of deputy state supervisors for neglect of duty, malfeasance or misconduct therein, and in all cases the last appointment to either of such offices for a precinct shall be recognized as valid. When any such officers have been removed and new appointments made, the board of deputy state supervisors shall immediately send notice thereof to the board of precinct officers. (97 v. 222 § 6.)

Judges and clerks may be removed.

SECTION 4859. The judges and clerks of elections, provided for herein, shall serve as such in all elections held under the provisions of this title. They shall perform all the duties and be subject to all the penalties imposed by law upon judges and clerks of elections. (97 v. 223 § 8.)

General duties of judges and clerks.

SECTION 4860. Such judges and clerks shall each receive as compensation for their services the sum of three dollars, which services shall be the receiving, recording, canvassing and making returns of all the votes that may be delivered to them in the voting precinct in which they preside on each election day. In any county containing a city having a population of three hundred thousand or more by the last preceding federal census, the compensation of such judges and clerks for such services shall be five dollars. In cities where registration is required, the compensation of judges and clerks shall be as otherwise provided by law. (97 v. 222 § 6.)

Compensation.

NOTE:— Compensation of judges and clerks of elections need not be allowed for by county commissioners. Atty. Gen. 8-19-1907.

## CHAPTER 4.

### QUALIFICATIONS OF ELECTORS.

#### SECTION

4861. Qualifications of electors.  
4862. When women may vote.  
4863. Residence in state, county, township and municipality.  
4864. Exception as to head of a family.  
4865. Residence required to vote at municipal elections.

#### SECTION

4866. Rules to govern judges in determining residence.  
4867. Where inmates of soldiers' home may vote.  
4868. Residence of inmates of city infirmaries.  
4869. Municipal lodging house.

Qualifications of elector.

SECTION 4861. Every male citizen of the United States, who is of the age of twenty-one years or over, and possesses the qualifications in regard to residence hereinafter provided, shall be entitled to vote at all elections. (Con. Art. V. § 1.)

When women may vote.

SECTION 4862. Every woman born in the United States or who is the wife or daughter of a citizen of the United States, who is over twenty-one years of age and possesses the necessary qualification in regard to residence hereinafter provided for men shall be entitled to vote and to be voted for for member of the board of education and upon no other question. (97 v. 354 § 3.)

Residence in state, county, township and municipality.

SECTION 4863. No person shall be permitted to vote at any election unless he shall have been a resident of the state for one year, resident of the county for thirty days, and, except as provided in the next section, resident of the township, village or ward of a city or village for twenty days next preceding the election at which he offers to vote. (R. S. Sec. 2945.)

Exception as to head of a family.

SECTION 4864. A person who is the head of a family and has resided in the state and in the county in which such township, village or ward of a city or village is situated the length of time required by the preceding section, and who bona fide removes with his family from a ward to another ward in such city or village, or from a ward of such city or village to a township or village in the same county, or from a township or village to a ward of a city or village in the same county, or from one township to another in the same county, shall have the right to vote in such township, village or ward of a city or village without having resided therein the length of time so prescribed by such section. (R. S. Sec. 2945.)

NOTE:—Where territory is transferred from one township to another by an unconstitutional statute, electors, in such territory are not thereby made legal voters of the township to which it is sought to attach the territory. State, ex rel. Bambach v. Markley, 9 O. C. C. (N. S.) 562.

SECTION 4865. Such voter so removing with his family from a township to a village or ward of a city or village in the same county shall not have the right to vote at any municipal election held in such city or village, unless he shall have resided therein twenty days prior to such municipal election. (R. S. Sec. 2945.)

Residence required to vote at municipal elections.

SECTION 4866. All judges of election, in determining the residence of a person offering to vote, shall be governed by the following rules, so far as they may be applicable:

Rules to govern judges in determining residence.

1. That place shall be considered the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

2. A person shall not be considered to have lost his residence who leaves his home, and goes into another state, or county of this state, for temporary purposes merely, with the intention of returning.

3. A person shall not be considered to have gained a residence in any county of this state, into which he comes for temporary purposes merely, without the intention of making such county his home.

4. The place where the family of a married man resides shall be considered and held to be his place of residence, except where the husband and wife have separated and live apart, then the place where they resided at the time of the separation shall be considered and held to be his place of residence, unless he afterward, and during the time of such separation, remove from such place, in which case the county, township, city or village in which he resides the length of time required by the provisions of this chapter to entitle a person to vote, shall be considered and held to be his place of residence.

5. If a person remove to another state with an intention to make it his permanent residence, he shall be considered to have lost his residence in this state.

6. If a person remove to another state, with an intention of remaining there an indefinite time, and as a place of present residence, he shall be considered to have lost his residence in this state, notwithstanding he may entertain an intention to return at some future period.

7. The mere intention to acquire a new residence, without the fact of removal, shall avail nothing; neither shall the fact of removal without the intention.

8. If a person go into another state, and while there exercise the right of a citizen by voting, he shall be considered to have lost his residence in this state.

9. All questions of the right to vote shall be heard and determined by the judges of election. (R. S. Sec. 2946.)

NOTE:—The question of qualification of a voter must be decided by the judges of election, at the time he presents himself to vote, and their decision must be governed by the instructions prepared and furnished by the Secretary of State under Sec. 5047.

A resident of the District of Columbia or other federal territory, while engaged in the government service, may elect a place of residence for voting purposes elsewhere. But he must have a clear intention of returning to such voting residence as soon as his temporary employment in the service of the government has ended.

NOTE:—The vote of a man otherwise qualified, who is not a lunatic or idiot, but whose faculties are greatly enfeebled by age, ought not to be rejected.

Sinks v. Reese, 19 O. S. 307.

Where inmates of soldiers' home may vote.

SECTION 4867. Disabled soldiers who are inmates of a national asylum for disabled volunteer soldiers who are citizens of the United States and have resided in this state one year next preceding the election and are otherwise qualified as to age and residence within the county and township shall have their lawful residence in the county and township in which such asylum is located. (R. S. Sec. 2947.)

Residence of inmates of city infirmaries.

SECTION 4868. The legal residence of a qualified elector who may be an inmate of an infirmary owned or maintained by a city shall be the ward or precinct of such city where such inmate was so domiciled or resident at the time of his admission to such infirmary and shall so continue during the time he may be an inmate thereof. (87 v. 316 § 1.)

Municipal lodging house not a residence.

SECTION 4869. A municipal lodging house shall not constitute the legal residence of any person so as to qualify him as an elector in such municipality. (100 v. 53 § 7v.)

## CHAPTER 5.

### REGISTRATION OF ELECTORS.

#### SECTION

- 4870. Registration in cities having a population of eleven thousand eight hundred or more.
- 4871. Annual general registration cities.
- 4872. Quadrennial general registration cities.
- 4873. Office of board of deputy state supervisors.
- 4874. General powers and duties of the board.
- 4875. Rules and regulations.
- 4876. Duties of the clerk.
- 4877. Deputy clerk and assistants.
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- 4880. Equal representation of political parties.
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- 4883. Vacancies and removals.
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- 4885. Notice of appointment of substitutes.
- 4886. Certificate of appointment as registrar, judge or clerk.
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- 4917. Lists shall be printed and posted at polling place; copies of complete registration.
- 4918. Duplicate registration lists for use at polls.
- 4919. Meeting for granting or receiving certificates.
- 4920. Registration by order of deputy state supervisors.
- 4921. Meeting on evening prior to election.
- 4922. Witness and challenger may be admitted to polling place.
- 4923. Inspection of ballot boxes.
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- 4925. Opening and closing of polls.
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- 4927. Location of ballot box and checking of lists.
- 4928. Distribution of ballots by election officers unlawful.
- 4929. Challenges by electors.
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- 4931. Certificate and proclamation of total vote cast.
- 4932. Count of vote; excess of ballots destroyed.
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- 4935. Session of board on election day.
- 4936. Certificate in case of involuntary mistake in registering.
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- 4939. Discrepancy between returns to clerk and those received by board.
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- 4941. Special elections.

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- 4942. Compensation of deputy state supervisors and clerks in cities.
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#### REGISTRATION UPON ACTION OF COUNCIL.

- 4947. Council of other cities and vilages may provide for registration.

SECTION 4870. In cities which at the last preceding federal census had, or which at any subsequent federal census may have, a population of eleven thousand eight hundred or more, there shall be a general registration of electors in the several wards or precincts thereof in the manner, at the times and on the days hereinafter provided. No person shall have acquired a legal residence in a ward or election precinct in any such city for the purpose of vot-

Registration in cities having a population of eleven thousand eight hundred or more.

ing therein at any general or special election, nor shall he be admitted to vote at any election therein unless he shall have caused himself to be registered as an elector in such ward or precinct in the manner and at the time required by the provisions of this chapter. (R. S. Sec. 2926a.)

NOTE:— See *Daggett v. Hudson*, 43 O. S. 548.

An elector who registers prior to the November election in the precinct where he then resides, is a registered elector in any new or altered precinct which the board of elections may establish, and within the boundaries of which his residence falls.

*Columbus v. City Board of Elections*, 13 O. D. 452.

Annual general registration cities.

SECTION 4871. In cities which now or hereafter may have a population of one hundred thousand or more when ascertained in the manner provided in the preceding section, there shall be an annual general registration of all the electors therein in the several wards and precincts thereof on the days and in the manner hereinafter provided. (R. S. Sec. 2926h.)

Quadrennial general registration cities.

SECTION 4872. In cities which now or hereafter may have a population of eleven thousand eight hundred and less than one hundred thousand, when so ascertained, a general registration of all the electors therein shall only be had quadrennially at each and every presidential election, at the times and upon the days hereinafter specified. At all other state or public elections those electors only of such cities shall be required to register as may be new electors or who have moved into any precinct of such city since such general registration. (R. S. Sec. 2926h.)

Office of board of deputy state supervisors.

SECTION 4873. In counties containing a registration city, the board of deputy state supervisors shall have a sufficient and suitable office and rooms in such city for the purposes required by this chapter, which shall be in charge of the clerk thereof. In cities in which annual general registration is required, such office shall be kept open daily, except Sundays and legal holidays and in quadrennial general registration cities such office shall be kept open at such times as the board may require. (R. S. Sec. 2926b.)

NOTE:— In a registration city, the deputy state supervisors must designate the polling places within such registration city. See section 4844.

General powers and duties of the board.

SECTION 4874. The board of deputy state supervisors shall appoint all registrars of electors, judges and clerks of election, and other clerks, officers, and agents herein provided for, and designate the ward and precinct in which each shall serve. It shall appoint the places of registration of electors and holding elections in each ward or precinct, provide suitable booths or hire suitable rooms for such purpose, and for its office, at such rents as it deems just, and provide the necessary and proper furniture and supplies for such rooms. It shall provide for the purchase, preservation and repair of booths and ballot boxes necessary for use at elections in such city, of books, blanks and forms necessary for the registrations and elections herein designated and for duly issuing all notices, advertisements or publications required by law. (R. S. Sec. 2926c.)

SECTION 4875. From time to time the board of deputy state supervisors may make and issue such rules, regulations, and instructions not inconsistent with law as it deems necessary for governing and guiding the clerk, his deputies and assistants and the registrars of electors, judges and clerks of elections or other persons under the control of the board in the proper discharge of their respective offices and duties. No order, resolution or action of the board shall be valid without the vote of three of the four members. (R. S. Sec. 2926c.)

Rules and regulations.

SECTION 4876. Subject to the control of the board, the clerk shall keep a full and true record of the proceedings of the board, file and preserve in its office all orders, rules and regulations pertaining to the administration of registration and elections, prepare and furnish, under the orders of the board, the registers, lists, books, maps, forms, oaths, certificates, instructions and blanks, for the use and guidance of registrars, judges and clerks of elections and the board of canvassers; provide for timely furnishing of such officers therewith, and with the necessary supplies provided for them; to receive and keep close custody of the registers and copies returned to such office, as herein provided, of records, papers and certificates of every kind, relating to the office or administration of the board. He shall have the care of the ballot boxes while deposited at the office of the board, and perform such other or further duties pertaining to such office and affairs as are prescribed by the board. (R. S. Sec. 2926b.)

Duties of the clerk.

SECTION 4877. When necessary, the board may employ a deputy clerk and one or more clerks as temporary assistants of the clerk at a salary of not to exceed the rate of one hundred dollars per month each and prescribe their duties. The period for which they are so employed must always be fixed in the order authorizing their employment, but they may be discharged sooner at the pleasure of the board. Such deputy clerk and assistants shall take the same oath for the faithful performance of their duties as required of the clerk of the board. The compensation of the deputy clerk and the assistant clerks shall be equally divided between the city and county. (103 v. 544.)

Deputy clerk and assistants.

SECTION 4878. The board of deputy state supervisors shall divide, define and proclaim the election precincts of such city and fix the boundaries thereof in the manner provided by law, and provide for furnishing to each registrar of electors and judges of elections a map and pertinent description of such divisions and boundaries and of changes which, from time to time, are made by them. (R. S. Sec. 2926c.)

Election precincts.

SECTION 4879. On or before the first day of September each year, the board of deputy state supervisors shall appoint for each election precinct in such city two electors of the city to act as registrars of the electors and also as judges of election in such precinct. On or before the first day

Appointment of registrars, judges and clerks.

of October each year, the board shall appoint two additional judges of elections and two clerks of elections for each precinct of such city. (R. S. Sec. 2926e.)

NOTE:— This section does not authorize the employment of more than two clerks of election in each voting booth. Atty. Gen. 10-25-1909.

Equal representation of political parties.

SECTION 4880. Neither the two registrars of a precinct nor the two clerks of elections thereof shall be of the same political party, nor shall more than two of the four judges of elections for any precinct be of the same political party. Appointments of such officers for each precinct shall be made so as in good faith to secure equal representation of political parties if practicable. (R. S. Sec. 2926e.)

Appearance for examination.

SECTION 4881. Each person selected by the board of deputy state supervisors for any of such appointments shall appear before the board at its office after twenty-four hours' notice, either served personally or left at his usual place of residence, for examination as to his qualifications for being appointed. (R. S. Sec. 2926e.)

Qualifications and oath of registrars, judges and clerks.

SECTION 4882. Each such registrar, judge and clerk of elections shall hold his appointment for one year, unless sooner removed by the board, and must be an elector of such city, able to read and speak the English language understandingly and write it readily and fairly, and shall take an oath of office as follows:

State of Ohio, .....county, ss.

I do solemnly swear that I will support the constitution of the United States and the state of Ohio and to the best of my ability discharge the duties of judge (registrar or clerk) of the election in and for precinct..... ward, city of ....., at the next ensuing election.

Signed .....

Sworn to and subscribed before me this ..... day of ....., in the year .....

.....

(Title of officer.)

Such oath may be administered by the clerk or any member of the board, and shall be filed in the office of the board. (R. S. Sec. 2926e.)

Vacancies and removals.

SECTION 4883. A vacancy in the office of registrar or of judge or clerk of elections shall be filled by the board of deputy state supervisors. Any of such officers may be summarily removed from office by the board at any time for neglect of duty, malfeasance or misconduct therein. In all cases the last appointment to either of such offices for any precinct shall be recognized as valid. Immediately upon such removal and the filling of such vacancy, a brief note of the proceedings shall be entered in the poll books and subscribed by the judges so acting, which entry shall specially state the cause of such removal. (R. S. Sec. 2926e.)

SECTION 4884. If a judge of elections fails to attend at the opening of the polls on the day of election for any cause, or, by the decision of the other three judges, becomes disabled or unfit to act in receiving and enumerating the ballots and certifying the result of the election, the other judge of the same political party shall at once appoint another competent elector of such city to act in his place, and shall administer to him the oath of office herein prescribed. If a clerk of elections fails to attend at the opening of the polls on the day of election, or, during the election, by any cause becomes disabled or unfit to act in entering, enumerating or certifying the ballots, the judges of the election, or a majority of them, may summarily remove him, and the two judges of the same political party as such clerk shall forthwith appoint another competent elector of such city to act in his place, and shall administer to him the oath of office herein prescribed. (R. S. Sec. 2926e.)

Substituted  
judges and  
clerks.

SECTION 4885. Notice of such appointment of judge or clerk of election shall be immediately sent by the judge or judges making such appointment to the board of deputy state supervisors, and the person so appointed shall not perform any of the duties of his office until such notice has been sent to the board. The person so appointed to act temporarily as judge or clerk shall perform the duties of the office after the sending of such notice until the board shall confirm the appointment or appoint another person to such office. (R. S. Sec. 2926e.)

Notice of  
appointment  
of substitutes.

SECTION 4886. The person appointed by the board of deputy state supervisors as registrar, judge or clerk of elections shall receive from the board a certificate of appointment, which may be revoked at any time by the board. Such certificates shall be in such form as the board prescribes and shall specify the precinct and ward of the city in and for which the person to whom it is issued is appointed to serve, the date of appointment and the expiration of his term of office. During the time they hold such certificates of appointment as such officers, registrars, judges and clerks of elections shall be exempt from the performance of military and jury duty. (R. S. Sec. 2926e.)

Certificate of  
appointment  
as registrar,  
judge or  
clerk.

SECTION 4887. While exercising office under this or any other law regulating elections all registrars of electors and judges of elections shall enforce the peace and good order and obedience to their lawful commands for such ends at and about the place of registration and holding elections. They shall especially keep the place of access of the electors to the polls open and unobstructed, prevent and suppress riot, violence, tumult and disorder and any and all improper practices or attempts tending to obstruct or intimidate electors from a free exercise of their right to vote or tending to disturb or interfere with the free and peaceful registration of electors or the counting of the vote or the certifying of the result of an election. They shall

Powers and  
duties of  
registrars,  
judges and  
peace officers.

protect the clerks of an election and the witnesses and challengers designated to attend an election, as herein provided, from any violence, interference or molestation during the receiving and enumeration of ballots. At all hazards, they shall preserve and secure the registers, poll books, ballot boxes and ballots at every election from violence, fraud or tampering. (R. S. Sec. 2926f.)

Duty of  
city police.

SECTION 4888. To enforce the provisions of the preceding section, the officer or authority having command of the police force of such city, on the requisition of the board of deputy state supervisors, shall promptly detail for service at the polling place in any precinct of such city such force as the board may deem necessary. On every day of election such officer or authority shall have a special force in readiness for any emergency. (R. S. Sec. 2926f.)

Loitering near  
polls and hin-  
dering elec-  
tors.

SECTION 4889. During the receiving and counting of the ballots or registering of electors, no person or persons shall loiter or congregate within one hundred feet of the polling place of any election, or place of registration of electors, or in any manner hinder or delay any elector in reaching or leaving the place fixed for registration or casting his ballot, or within such distance of one hundred feet give, tender or exhibit any ballot or ticket to any person other than a judge of elections, or exhibit any ticket or ballot which he intends to cast, or solicit or in any manner attempt to influence any elector in casting his vote. (R. S. Sec. 2926f.)

Judges may  
secure as-  
sistance.

SECTION 4890. In the discharge of their duties, the judges of elections, if necessary, may appoint and require any elector or electors to aid them in making known their orders or directions and in enforcing the peace. Such judges, or any of them, or any registrar, may order the arrest of a person violating these sections, but such arrest shall not prevent such person from voting or registering if he is entitled so to do. The sheriff, all constables, policemen and officers of the peace, and all bystanders at any election shall immediately obey and aid in enforcing any and every lawful order made by the judges in execution of the provisions of the preceding sections. (R. S. Sec. 2926f.)

Duplicate lists  
and registers  
of electors.

SECTION 4891. In quadrennial general registration cities, on or before the first day of September of each year, except each fourth year when general registration is required, the clerk, under the direction of the board of deputy state supervisors, shall prepare and furnish to the registrars for each precinct in such city duplicate lists of all electors so registered in such precincts at the last general registration, together with such new and additional ones as may have registered at any election subsequent to such general registration with sufficient blank space for new electors to be registered therein. In annual general registration cities, on or before the first day of September of each year, the board shall procure and have at its office duplicate books for

each election precinct in such city for the registration of electors therein, which shall be styled and known as "registers of electors." (R. S. Sec. 2926g.)

SECTION 4892. Each such register of electors shall contain space and ruled lines for at least seven hundred names, and be arranged and ruled in parallel columns with printed heading in the following order: Number (consecutively), full name, age, present place of residence, place of residence at last registration, occupation, term of residence, nativity, when naturalized, court, married or single, personal description, date of registration, sworn, signature, remarks. The rulings and headings of each page of the register shall be according to the following diagram enlarged. (102 v. 181.)

Form of register of electors.

SECTION 4893. On Wednesday in the fifth week before the November election, each year, the registrars of each precinct in such city shall apply for such lists and such registers and the map of their precinct, and such printed instruction for the discharge of their duties as the board of deputy state supervisors may lawfully prescribe. (R. S. Sec. 2926g.)

Duties of registrars.

SECTION 4894. The days for the general registration of electors in cities wherein annual general registration is required and for the quadrennial general registration and yearly registration of new electors in cities where general registration is required only in presidential years, shall be Thursday in the fifth week, Thursday in the fourth week and Friday and Saturday in the third week next before the day of the general election in November in each year. (R. S. Sec. 2926h.)

Registration days specified.

SECTION 4895. Between the first day of September and the day preceding the first of the days prescribed for the general registration, and no longer, the clerk of the board of deputy state supervisors shall act as registering officer in the cases only described in the following two sections. (R. S. Sec. 2926h.)

When clerk may act as registering officer.

SECTION 4896. Any person resident of such city who will be lawfully entitled to vote therein at the next succeeding November election may go before such clerk at the office of the board, and, on making and subscribing an oath before him that he will necessarily and unavoidably be absent from such city on all the days appointed or allowed by law for the general registration of electors by the registrars of the precinct in which he resides, specifying them, and more than fifty miles distant therefrom, the clerk, if satisfied, shall thereupon file such affidavit and make registration of such person in the registers of such precinct, on compliance of such applicant with the requirements of law for general registration and his signature to the statement prescribed, and no further registry of such applicant shall be necessary. (R. S. Sec. 2926h.)

Affidavit in case of unavoidable absence.

Affidavit of  
elector in  
foreign  
country.

SECTION 4897. An elector of such city who is absent therefrom and without the county in which it is situated and more than fifty miles distant from such city, may appear before a judge or clerk of any court of record or notary public, or, if in a foreign country, before any minister, consul, or vice consul of the United States, and make and subscribe an affidavit as to his residence, specifying in what ward and precinct he resides, and that he will be necessarily and unavoidably absent from such city on all the days allowed or appointed by law for the general registration of electors in such precinct, and answering and setting forth accurately each and all matters herein required to be set forth in the register of electors, and forward such affidavit duly authenticated by mail, under an envelope addressed to the "Clerk of the board of deputy state supervisors" of such city. If received by such clerk between the days so appointed for his acting as such registrar, it shall entitle such applicant to be entered by the clerk in the proper register of such precinct. In place of the signature of such elector, the word "affidavit" shall be inserted, and no further registry of such applicant shall be necessary. Such affidavit and envelope shall be filed and preserved in the office of the board. No such affidavit shall be allowed by the clerk unless the officer before whom it is made shall certify that the affiant is personally known to him to be the person he represents himself to be or proven so to be by a credible person known to him whose name and full address must be stated in such certificate. (R. S. Sec. 2926h.)

Entry of  
"challenged"  
in case of  
affidavit.

SECTION 4898. Any such affidavit of an absent elector, received by the clerk, on or after the first day herein appointed for general registration by the registrars, shall be transmitted by him immediately to the registrars of the proper precinct, and they may register the applicant as herein directed and shall preserve such affidavit. When application for registration is thus made by affidavits forwarded by mail, if the clerk or registrars, as the case may be, are not satisfied that such applicant is a resident of the precinct so specified, or that he will be entitled to vote on the day of the next election, the word "challenged" shall be entered in the registry opposite his name and in the column for "remarks", and such affidavit and envelope shall be transmitted to the judges of election. If he appears, such applicant shall be required to establish his residence and qualification before voting. (R. S. Sec. 2926h.)

Close of reg-  
istration by  
clerk.

SECTION 4899. On the day preceding the first of the days herein appointed for the general registration, the clerk of the board of deputy state supervisors shall close such registration in each register in which he has so entered any registration of electors, by drawing double lines across the page with ink immediately below the last name registered by him, and add the words, "Close of registration

er Means of Identification.	Date of Registration.	Sworn.	Signature.	Remarks



by the clerk," and shall thereunto subscribe his name and office. (R. S. Sec. 2926h.)

SECTION 4900. In cities in which a general registration of electors is required at presidential elections only, at all other state or other public elections, those electors who have been duly registered at such general registration and have not removed from the precinct in which they then registered at such general registration in such city shall not be required to register. But at such state or other public elections, at the times hereinbefore provided for registration days, only those electors of such city shall be required to register as may be new electors or who have moved into a precinct of such city since a general registration and have not been registered therein, except that at such public election, other than presidential and state, such registration shall take place on Friday and Saturday in the third week before any such election. If an elector removes from the precinct in which he has so registered into another precinct of the city in which he resides, he shall apply in person to the registrars of the precinct in which he has so registered for a "removal certificate," as herein provided in other cases. (R. S. Sec. 2926h.)

Registration of new electors in quadrennial registration cities.

SECTION 4901. Within a sufficient time previous to such state or other public election, the registrars of each precinct in such city shall obtain the preceding register made by them from the board of deputy state supervisors, and attend at the place in such precinct appointed for the registration of electors at the time hereinbefore provided, and receive application for registration by such qualified electors residing therein as are not already registered at the last preceding general registration. Such registrars shall take all such preceding registers of their respective precincts, so required to be furnished them, as hereinbefore provided, make a thorough canvass thereof for the purpose of ascertaining whether any of the electors so registered have removed or died and make a report of their proceedings carefully noting any and all changes found, together with such additional names of the electors registered by them to the board of deputy state supervisors, (R. S. Sec. 2926h.)

Duties of registrars.

SECTION 4902. In each county containing an annual general registration city, the board of deputy state supervisors shall act as a board of registration of naturalized voters in such city. It shall receive and record any certificate of naturalization offered to it by a naturalized citizen in person who is then an elector of such city and requests that such certificate be put on record by the board, and states under oath or affirmation his age, his place or places of residence during the five years preceding such statement and the length of time he has resided in each such place. Thereupon the board, by its clerk or deputy clerk, shall place such certificate of naturalization on record together with a record of the statements of the appli-

Board of registration of naturalized voters.

cant, and they shall be matters of public record. Such registration of certificate of naturalization may be made on any day and at any time during which the office of the board is open for the transaction of ordinary business, except, on election days and days for the general registration of electors. (R. S. Sec. 2926h.)

Hours for registration specified.

SECTION 4903. On each of the days appointed for the general registration of electors, the registrars of electors shall meet at the place in each precinct provided by the board of deputy state supervisors for that purpose, and there remain in session from the hour of eight o'clock forenoon until the hour of two o'clock afternoon, and from four o'clock afternoon until nine o'clock afternoon of each day of the days so appointed for the purpose of registering the electors lawfully resident in such precinct. No person shall be registered as an elector of such city at any time or place other than those designated in this chapter. In making registration, each applicant shall answer the inquiries made by the registrars. (R. S. Sec. 2926i.)

Oath to challenged elector.

SECTION 4904. Having openly and publicly met at the place and time herein appointed, the registrars shall receive the applications for registration of all such persons resident in such precinct as then are or on the day of election which will next follow such application will be, entitled to vote therein and who shall personally come before them, and such only. The registrars may, and, if the right of the applicant to be registered is challenged by any elector, shall administer the following oath: "You do solemnly swear that you will truly and fully answer all such questions as may be put to you, touching your place of residence, name, age, place of birth, qualifications as an elector and your right as such to be registered and vote under the laws of this state." (R. S. Sec. 2926i.)

Questions to be answered by applicant.

SECTION 4905. The registrars shall then examine each applicant as to his residence and qualifications as an elector, and, if not satisfied, or if any electors so demand, they shall enter the word "challenged" under the column for "remarks." Unless otherwise herein directed, they shall then in the presence of the applicant enter in the registers his answers to their questions, pertinent to the heading of each column, in their order. (R. S. Sec. 2926i.)

How entries shall be made.

SECTION 4906. In entering his "number," such number shall be filled up consecutively, leaving no blank. In "name" they shall include his Christian name or names in full, as well as his surname. In the column as to present place of residence, shall be stated the name of the street, avenue, alley or way in which his dwelling is located or access thereto is usually had, and the number of the house, if it has one. If it has no number, a definite description by which it can easily be found must in every case be given and entered. If there are more houses than the one under the number so given, or if there are other families, tenants or lodgers in that in which the applicant resides, he must

specify in which house and on which floor and whether front or rear, of such house he resides, and the number and location of his tenement.

In the column as to "place of residence at last registration" shall be stated his then postoffice address, with street number, if any, and, if his residence was the same, the words "same residence" shall be entered.

In the column as to "age," the years and months must be stated, and, if the applicant is not at the time twenty-one years of age or more, the words "not of age" must be inserted in the column of "remarks."

In the column as to "occupation" and the name of his employer, if he has one, must be stated.

In the column as to "term of residence," the periods of years and months of his residence in the precinct and state must both be stated.

In the column as to "nativity," the name of the state or foreign country must be given.

In the column as to "naturalized," the answer "yes" or "no" or "native" must be given and stated. If naturalized, the proper certificate or evidence must be produced, unless such certificate has been filed with the board of deputy state supervisors, as herein provided.

In the column as to "married or single," if the head of a family, it must be so stated.

Nothing shall be entered in the column as to "personal description" until the applicant has signed the register, and then lines shall be drawn unless the applicant has been challenged, or signs by mark, in either of which events, the color of his hair, the color of his eyes, apparent height, apparent weight and other means of identifying him, such as the loss of a member, whether smooth-shaven or otherwise, and description of birthmarks or scars, if any, shall be stated.

The column as to "date of registration" must be filled with the date on which the applicant actually registered, and none other. (102 v. 182.)

SECTION 4907. If the applicant for registration declares that the certificate of naturalization, upon which he claims the right to vote, has been filed for record with the board of deputy state supervisors having charge of such registration, as herein provided, he shall not be required to produce such certificate of naturalization or other evidence thereof, but the registrars may require such declaration to be made upon oath or affirmation, and the word "registration" shall be noted opposite his name in the column under the heading of "remarks." (R. S. Sec. 2926i.)

When certificate of naturalization may not be produced.

SECTION 4908. After the answer of the applicant to the question under the head of each column, except the questions as to "personal description" has been properly entered by the registrars, in his presence, and not until then, he must enter his signature on the same line and in

Signatures of applicant.

both of the registers in the column "signatures." An applicant who signs by mark shall make an affidavit on a blank prepared for that purpose, that he cannot sign his name, which affidavit shall be delivered to the office of the board of deputy state supervisors, with the registers, and there preserved, and the signature of an applicant who signs by mark must also be attested by at least one subscribing witness, who shall be an elector and may be examined under oath by the registrars as to his knowledge of the person thus attested, and in such case noted by the registrars on the registers as "sworn" or "affirmed," as the case may be. (102 v. 182.)

Duplicate register.

SECTION 4909. Each of the registrars shall enter the statement of the applicant in the duplicate register kept by him, and both shall be signed by the applicant. At the close of each day's registration, the registrars shall compare their registers with each other and correct any discrepancy in form before closing them for the day. The registrations for the day shall then be ruled off by double lines, to be drawn by the registrars across the page in ink and immediately under the last name and statement so registered. The registrars shall make a note in writing under such double line, stating "close of the first, second, etc. day's registration," and attest it by their signatures in both registers. The register shall then be deposited by them at the end of each day at the office of the board of deputy state supervisors. (R. S. Sec. 2926i.)

Where registers shall be deposited.

SECTION 4910. When not in the official use of the registrars or the judges of elections, all registers shall at all times be deposited and locked up in the office of the board of deputy state supervisors of such city, subject to be produced for inspection at all proper times. (R. S. Sec. 2926i.)

Voters required to register.

SECTION 4911. Each male person who is a citizen of the United States and lawfully resident of this state and of any city wherein registration is required, who is, or at the next ensuing election in such city will be, entitled to vote therein, on application in the election precinct where he lawfully resides and complying with the requirements herein, shall be registered as a resident and elector therein, but not otherwise. No person shall be entitled to vote at any election in such city unless he shall establish his residence by causing himself to be registered in the precinct where he shall claim to reside, in the manner and at the time required herein, nor shall a ballot be received by the judges at any election under any pretense whatever unless the name of the person offering it shall have been entered on both of the registers of the precinct in which he claims to vote, as herein provided. It shall be the duty of each elector resident in any such city to see that his name has been so registered. (R. S. Sec. 2926j.)

SECTION 4912. An elector in such city who is prevented by sickness or physical disability from appearing before the registrars at the place in his election precinct on the days for general registration, may apply to such registrars on either of such days by his affidavit made before a judge or justice of the peace or notary public in such city. Such affidavit shall contain a full and proper answer to each and every question under all the heads or columns required for registration, and shall be transmitted to such registrars by a credible person, who is an elector of such precinct and personally cognizant of the sickness and disability of the applicant and of the facts stated in the affidavit. Such person shall be examined under oath by the registrars as to such matters. If satisfied that the applicant is a resident of such precinct and that he is then or on the day of the next election will be qualified to vote therein, the registrars shall enter the applicant as registered, and in the column for "signatures" enter the word "affidavit" and transmit the affidavit with the registers to the judges of election and such registration shall be sufficient. (R. S. Sec. 2926j.)

Registration of disabled persons.

SECTION 4913. An elector, being the head of a family and duly registered in the precinct where he then resided, who shall remove into another precinct in the same city, or an elector not the head of a family, duly registered in a precinct of a ward where he then resided, who shall remove into another precinct in the same ward may on any of the days of general registration apply in person to the registrars of his previous precinct for a "removal certificate," and it shall be made and signed by them, certifying his registration, with all its particulars, as shown on their registers, but adding his statement of the new residence and precinct to which he has removed. They shall then immediately cancel his registration on their registers by drawing double lines in ink through it and noting his "removal" and the ward and precinct to which he has removed in the column of "remarks". Such note must be subscribed by the applicant. (R. S. Sec. 2926k.)

Certificates in case of removal.

NOTE:— This section applies where after registration an elector removes to another precinct of the same city prior to the close of registration. If he so removes after the last day of registration the provisions of Sec. 4919 apply.

SECTION 4914. When by mistake a qualified elector has caused himself to be registered in a precinct which was not his place of residence, the registrars therein, on full and satisfactory proof that such error was committed by mistake and without fraud or unlawful intent, may on his personal application and proof of his true residence give him a similar certificate, as in case of removal, and cancel his registration in the same manner on their registers. (R. S. Sec. 2926k.)

Certificates in case of mistake.

SECTION 4915. In case of a removal or mistake, the certificate so granted shall entitle such persons to be registered in the precinct where they lawfully reside, if such

Registration on certificate.

certificates are presented on any of the days for general registration or between the hours of two thirty and five thirty o'clock afternoon on Monday, the day preceding the November election, to the registrars of such precinct, and proper proof thereof is made to them. When registration is so granted upon certificate from the registrars of other precincts or by order of the board of deputy state supervisors, as hereinafter provided, such certificate or order must be retained by the registrars to whom it is presented and filed by them in the office of the board of deputy state supervisors and preserved. No such certificate or transfer shall be allowed or be valid unless certified and signed by both the registrars of the precinct in which the registration was first made. R. S. Sec. 2926k.)

Annual registration list.

SECTION 4916. On the day following each registration day, unless such day be Sunday or a registration day, in which event on the next succeeding day, each year, the registrars of each election precinct shall make and deliver to the board of deputy state supervisors at its office in such city a true list of the names of all electors registered by them in their respective precincts on the preceding day or days, arranged in the alphabetical order of their surnames, followed by their full Christian names and residences, and having the registry number of each prefixed. The lists shall be under the following heading: "List of electors registered in ward . . . . ., precinct . . . . . of the city of . . . . ., on the . . . . . days of . . . . . 19. . . . , No. . . . . name, . . . . . residence." The following certificate shall be annexed at the end of the list and signed by both of the registrars of the several precincts: "We, the undersigned, registrars of electors in ward . . . . ., precinct . . . . ., of the city of . . . . . and state of Ohio, do certify that the foregoing list is a true and correct copy of the names, residences and registry numbers on the registers of such precinct of all persons who have been registered by us as residents and qualified electors in such precinct, this . . . . day of . . . . . in the year nineteen hundred and . . . . ." (102 v. 183.)

Lists shall be printed and posted at polling place.

SECTION 4917. After the last day of registration, and, if so directed by the state supervisor of elections after each day of registration, the board of deputy state supervisors shall cause a number of copies of such lists for each precinct in such city respectively to be printed on broad side sheets of thick paper and in plain type, two of which lists they shall cause to be securely posted at the polling place of such precinct within five days after they receive such lists from the registrars, and one of which shall be delivered to the controlling committee of each political party or

authorized committee of each set of candidates nominated by petition. Each list printed shall include all the names registered.

A copy of the complete registration prior to a November election from each precinct shall be retained by the board of deputy state supervisors, and each year, after the close of the annual registration, bound together in a volume and preserved in its office. They shall cause at least fifty additional copies of such list respectively to be printed in pamphlet form for immediate distribution. (103 v. 519.)

Copies of complete registration.

SECTION 4918. After making and returning such lists to the board of deputy state supervisors, the registrars shall make in books, to be prepared and furnished them by the board, duplicate lists of all the registered electors in their precinct, arranged alphabetically in the order of their surnames, followed by their full Christian names, ages and residences, as registered, and the registry number of each prefixed. The books to be prepared for this purpose shall be ruled in columns with printed headings as follows: "Registry number . . . . ., name . . . . ., age . . . . ., residence . . . . ., voted . . . . ., remarks . . . . .". These lists shall be carefully compared by the registrars of each precinct with the registers thereof and with each other, and then certified by them in the form prescribed for the lists returned to the board of deputy state supervisors, and at the opening of the polls at the next succeeding election shall be there produced by them for the use of the judges, as herein provided. (R. S. Sec. 2926l.)

Duplicate registration lists for use at polls.

SECTION 4919. On Monday, the day preceding the November election in each year, the registrars of each election precinct shall meet at two-thirty o'clock afternoon at the polling place appointed for holding elections therein, and there remain in session until five thirty o'clock afternoon, central standard time. At this meeting, they shall receive and act upon any application for either granting or receiving certificates of removal or correction of mistakes, as herein provided for. If material error or mistake in the description of any elector in such precinct has been discovered, he may appear at this meeting and on good cause shown, the registrars may then correct it. Any change in the registers allowed by the registrars at such meeting must immediately be noted by them in the registers and also in the books containing the duplicate lists for the use of the judges, as herein provided, and, if not then and there so noted, shall be wholly null and disregarded by the judges of election. (R. S. Ses. 2926m.)

Meeting for granting or receiving certificates.

NOTE:—Where an elector has registered more than once in the same precinct, the registrars of such precinct should make correction to show but one registration,

Registration  
by order of  
deputy state  
supervisors.

SECTION 4920. At such meeting and subject to the same conditions, any qualified elector of such precinct may be registered who shall appear and present an order requiring it, signed by not less than three members of the board of deputy state supervisors. No such order shall be made or considered by the board, except in a session of the board, to be held in its office on Saturday and Monday preceding the November election in each year, and during such hours as may be prescribed by the board therefor, nor unless the applicant shall appear before the board personally at such session after the last day of general registration and proves to its satisfaction that he could not by due diligence have appeared before the registrars in his proper precinct on either of the days appointed herein, and shall furthermore comply with all the prescribed requirements for general registration. (R. S. Sec. 2926m.)

Meeting on  
evening prior  
to election.

SECTION 4921. On Monday, the day preceding the November election in each year, the registrars, as judges of election and the other two judges of election in each precinct shall meet at the polling place appointed for holding the election therein at seven o'clock afternoon, punctually, and then and there organize as a board by electing one of their number by ballot as chairman. If they fail so to elect a chairman within ten minutes, they shall immediately choose a chairman by drawing lots. At this meeting, they shall make all necessary arrangements for securing the ballot boxes and the proper accommodations for themselves and the clerks of elections in receiving and counting ballots at the ensuing election, and also, if requested for the witnesses and challengers designated by each political party, as provided in the next section. (R. S. Sec. 2926n.)

NOTE:— In selecting a chairman on the Monday evening preceding the November election, the choice must be by ballot or by lot. The rule as to "dominant party" does not apply.

Witness and  
challenger  
may be ad-  
mitted to  
polling place.

SECTION 4922. At each election, the executive or principal committee of each political party presenting one or more candidates for suffrage may, by writing, certified by its chairman and secretary, and presented to the judges of election at or before this meeting, designate not more than one elector of such city as witness and one other elector as challenger, to attend at such election in behalf of such party. The judges of election in each ward or election precinct shall admit such witnesses and challengers so accredited into the polling room with themselves and the clerks at the ensuing election and place them so near to themselves and the clerks that they can fully and conveniently watch every proceeding of the judges and clerks from the time of opening to closing of the polls. No other person, except the witnesses and the judges and clerks of the election shall be admitted to the polling place after the closing of the polls until the counting, certifying and signing of the

final returns of such election have been completed. (R. S. Sec. 2926n.)

NOTE:— See note to Sec. 4808, as to “Executive Committee.” See also *Oliver v. Bodie*, 3 N. P. 298.

SECTION 4923. Before opening the polls, the ballot boxes shall be opened, if requested by a witness, so that the inside and the locks and keys may be inspected by them. No ballot box, nor any ballot when taken from it for counting, shall be removed or screened from the constant sight of such witnesses until the counting has been closed and the certificate of the final returns completed and signed by the judges. The challengers so designated shall be so placed that they can fully see and meet each and every person offering a ballot to the judges or either of them. (R. S. Sec. 2926n.)

Inspection of ballot boxes.

SECTION 4924. At the meeting on the evening of the day preceding an election, any elector may appear and challenge the vote of any person named in the register of such precinct, and the word “challenged” shall immediately be entered by the judges opposite the name of such person on both the duplicate lists of electors, and, if he shall offer to vote at such election, the judges, upon such challenge, shall examine him under oath as to his qualifications as an elector in such precinct. (R. S. Sec. 2926n.)

Challenge of person named in register.

SECTION 4925. On the day of the November election in each year and of any other election, the polls shall be opened by the judges of elections appointed and organized as herein provided, by proclamation made by the chairman at the hour of five-thirty o'clock forenoon, standard time, and shall be closed by proclamation at the hour of five-thirty o'clock afternoon. (R. S. Sec. 2926o.)

Opening and closing of polls.

NOTE:— When the said section is construed with other legislation in *pari materia*, it does not appear that it denies or abridges the right of citizens to vote. The said section is intended to, and does facilitate rather than impede the exercise of the right of suffrage and it is reasonable, uniform and impartial.

Section 2926o, Revised Statutes, is a law of a general nature and operates uniformly throughout the state.

*Gentsch et al. v. State ex rel. McGarry et al.*, 71 O. S. 151.

SECTION 4926. At the hour of opening the polls, the registrars acting as judges shall punctually attend and produce at the polling places in the several precincts the registers, affidavits of sick or absent electors and accompanying papers and the duplicate certified lists of electors prepared by them, as herein required. The chairman of the board shall at once designate two members of the board of judges of different political parties, each to hold and to have charge of one of the duplicate lists. No ballot shall be deposited in the ballot box until the name of the elector offering it shall first have been stated by him and announced aloud by the judge holding the ballot nor until it shall

Duties of registrars acting as judges.

have been found on both such lists and so announced by both of the judges holding the lists. (R. S. Sec. 29260.)

Location of  
ballot box  
and checking  
of lists.

SECTION 4927. Each ballot must be put in the ballot box by the judge who receives it from the elector. Such judges shall check off the name of such elector and the ballot be so held forth by the judge that it shall be in full view of the elector until it is actually put into the box. For a wilful violation or evasion of this rule by any such judge, he shall at once be expelled from his office by the other three judges, and the vacancy filled in the manner herein provided in other cases of vacancy. Immediately upon the depositing of the ballot in the box, each of such judges shall check off the name of such elector on the duplicate list held by him by placing a "V" distinctly with ink in the column under the word "Voted" and in the line with the elector's name. (R. S. Sec. 29260.)

Distribution  
of ballots by  
election offi-  
cers unlawful.

SECTION 4928. No judge or clerk of elections, witness or challenger, admitted into the polling rooms at the election, at any time while the polls are open, shall have in his possession or distribute or give out any ballot or ticket to any person on any pretense during the counting or certifying of the votes, or have any ballot or ticket in his possession or control, except in the proper discharge of his duty in receiving, counting or canvassing the votes as required by law. This prohibition shall not extend to the lawful exercise by a judge or clerk of elections, witness or challenger of his individual right to vote at such election. (R. S. Sec. 29260.)

Challenges by  
electors.

SECTION 4929. A registered elector, when offering to vote, may nevertheless be challenged by any elector as a non-resident or for any of the causes allowed by law, and he shall be sworn and the same proceedings thereupon had as in other cases. In all cases of challenge, the judges holding such duplicate lists shall note the word "sworn" opposite the name of the person challenged. (R. S. Sec. 29260.)

Powers and  
duties of  
judges.

SECTION 4930. Except as otherwise required herein, the judges of election appointed as herein provided shall have the same powers and discharge all the duties conferred or required by the general laws of the state, regulating elections. Except when some authority or duty is herein allotted to one of such judges, no order or action on their part shall be valid without the concurrence of three members of such board of judges in any precinct. (R. S. Sec. 29260.)

Certificate  
and proclama-  
tion of  
total vote  
cast.

SECTION 4931. Immediately upon the close of the polls at each election in such cities, the number of electors entered and shown on the poll books as having voted shall be first certified therein and signed by the board of judges and the clerks. Before any other or further proceedings, the chairman of the board shall make a proclamation in a loud voice in the street outside of the polling room,

stating the number of voters so shown and certified on the poll books. The number of electors who shall have been checked on each of the duplicate lists as having voted shall next be counted and compared each with the other, and with the number so shown in the poll books and the result shall at once be certified in the poll books and signed by the judges. In counting those who are checked, the word "No" shall at the same time be entered in ink in the same column opposite the name of each elector who is not so checked off. In all cases of disagreement or doubt on any question during the election or counting, the judges may refer to the original registers, and they shall be conclusive when relevant. (R. S. Sec. 2926p.)

SECTION 4932. Without adjournment or delay, the ballot box shall then be opened, and, without opening any ballot or ascertaining its contents, the number of ballots shall first be counted. If the number of ballots exceeds the number of names on the poll books, the ballots shall be replaced in the box and one of the judges, with his back to the box and without seeing it, shall draw out, without showing them, and destroy, a number of ballots equal to the excess. If during the counting of the ballots or at the conclusion of the counting, an excess of ballots is discovered, all the ballots shall be returned to the box and, after being thoroughly mingled, the excess shall in the manner above directed be drawn out and destroyed and the count corrected accordingly. In all cases when ballots have thus been drawn out and destroyed, a minute of the number destroyed and the reason shall be made on the tally sheet. The count shall then commence and proceed without interruption or delay, and in no case shall cease until it is completed, proclaimed and the final result certified as herein required. (R. S. Sec. 2926p.)

Count of  
vote; excess  
of ballots  
destroyed.

NOTE:—In the absence of any showing of fraudulent intent or that the result was changed thereby, an election is not vitiated by the fact that a ballot was voted upon which a number had been placed in some unknown manner, or because the judges recounted the ballots and changed their decisions as to one which had been in dispute. State ex rel. Johnson et al. v. Village of McClure, 5 O. N. P. (N. S.) 541.

SECTION 4933. As soon as the ballots have been counted and tallied and the clerks have estimated the number tallied for each candidate, the chairman of the board shall make a second proclamation in the same manner as the first, stating the whole number of votes cast and the number counted and tallied for each candidate. This proclamation shall be prima facie proof of the result. The judges and clerks in each precinct shall at the same time make out and certify a summary statement of the number of votes cast therein and the number counted and tallied for each candidate as announced in the proclamation, and dispatch it without delay by a special messenger in a sealed envelope, to the board of deputy state supervisors at its office. As soon as the result has been proclaimed, the

Summary  
statement of  
votes cast.

judges of election shall also announce it to the board of deputy state supervisors from the nearest police station or from the telegraph or telephone station, if nearest to them. At the request of a person designated to witness the counting of the ballots, the judges and clerks of election shall also sign and deliver to him a certificate containing the same statements as required to be made to the board of deputy state supervisors. (R. S. Sec. 2926p.)

Signing of  
tally sheets.

SECTION 4934. After completing the counting and enumerating of the ballots, and proclaiming and issuing the statement of the result, as hereinbefore directed, the number of votes for each person shall be set down in the tally sheets under the inspection of the judges and certified and signed by them in manner and form as prescribed by law. In all certificates the number of votes shall be fully written out in words and also stated in figures. (R. S. Sec. 2926p.)

Session of  
board on  
election day.

SECTION 4935. The board of deputy state supervisors shall convene in session at its office at five-thirty o'clock forenoon on the day of each election in such cities, and remain in session continuously until such statements giving the result of the election are received from every precinct in such city. The board may employ messengers, use the telephone and telegraph, direct the police force of the city, and use any other lawful means to secure prompt and correct reports from the election judges. The police authorities shall assign at least one policeman to do duty in each precinct on each day of election. (R. S. Sec. 2926q.)

Certificate in  
case of invol-  
untary mis-  
take in reg-  
istering.

SECTION 4936. In case an elector, through no mistake or negligence of his own, shall have been registered in the wrong precinct, the board of deputy state supervisors, during each election day, may issue to such elector a certificate, showing such fact, and such certificate, when presented by such elector to the proper registrars and judges, shall entitle him to vote in his proper precinct. Such mistake shall be noted on the register. When any such certificate is issued, the board shall immediately notify the registrars and judges of elections of the precinct where such elector was so improperly registered of the issuing of the certificate, whereupon such erroneous registry shall be cancelled by them and a proper note thereof made in the column for "remarks". (R. S. Sec. 2926q.)

Disposition of  
poll books and  
tally sheets.

SECTION 4937. After having set down the number of votes for each person, certified and signed it in the poll books and tally sheets in the manner prescribed by law, the judges of elections shall put under cover one of the poll books and tally sheets, seal it and direct it to the clerk of the court of common pleas. The other poll book and tally sheet shall be sealed in like manner and directed to the board of deputy state supervisors. Before separating, they shall designate two of their number as messengers, by lot, if they can not agree, one of whom shall personally and within

twenty hours from the close of the polls deliver to the clerk of the court of common pleas the poll book and tally sheets so addressed to such clerk, and the other shall personally and within twenty hours deliver the other poll book and tally sheet to the board of deputy state supervisors at its office. (103 v. 846.)

NOTE:— No express provision is made for the preservation of these returns for any definite time, but the clerk should retain such returns in a suitable place for a reasonable period after each election. It would be well for the clerk to retain them for at least one year.

SECTION 4938. The chairman of the precinct board of elections shall safely return the registers, the duplicate lists made therefrom, the ballot boxes and keys thereto and all papers or affidavits accompanying them to the board of deputy state supervisors or the clerk at the office of the board within twenty hours. The judges and clerks of elections shall not adjourn, disperse or cease from proceeding as hereinbefore required until all such requirements have been actually executed and completed in the manner and form prescribed by law. (R. S. Sec. 2926r.)

Return of registers and completion of work.

SECTION 4939. On demand of any candidate, the board of deputy state supervisors shall compare the returns received by the county clerk from the precincts in such city with the certified statement sent by the judges of election to the board of deputy state supervisors. If found to disagree, the number certified in the statement last mentioned shall be taken as correct and counted, unless proof of their returns received by the county clerk, satisfactory to the board, shall be made by the judges, clerks and witnesses of the counting. For the purpose of adjusting such discrepancy and determining the true result of the election, such board shall summon witnesses and examine them under oath as to the proceedings and proclamations at such election in any precinct, and it may view and consider as part of the record the poll books and tally sheets, registers and duplicate lists made therefrom, and deposited, as herein provided. Such inquiry shall be limited exclusively to determining which shall be adopted as proof of the true vote at the close of the polls in a precinct: the returns as received by the county clerk, or the certified statement as received by the board of deputy state supervisors. (R. S. Sec. 2926s.)

Discrepancy between returns to clerk and those received by board.

SECTION 4940. The provisions of this chapter relating to registration shall apply to women upon whom the right to vote for member of the board of education is conferred by law, but the names of such women may be placed on a separate list. (97 v. 254 § 3.)

Registration of women.

NOTE:— As to constitutionality of act conferring upon women the right to vote and be voted for at any school election, etc., see State ex rel. v. Board of Elections, 9 C. C. 134, affirmed in 54 O. S. 631.

## SPECIAL ELECTIONS.

Special  
elections.

SECTION 4941. The provisions of the preceding sections of this chapter shall extend to any special election authorized by law to be held in a registration city, as follows:

Registration  
in such  
elections.

1. There shall be no general registration, as provided in such preceding sections, but on Friday and Saturday in the second week before any such special election, the registrars of each precinct shall obtain the last registers made by them from the board of deputy state supervisors, and attend at the place in such precinct appointed for the registration of electors, between the hours directed for the purpose, and receive applications for registration by such qualified electors residing therein as are not already registered. If qualified, they shall enter them in the registers, subject to the rules and conditions prescribed as to general registration.

Certificates of  
cancellation.

2. The registrars shall deliver certificates of cancellation to any registered elector who is not the head of a family and who may apply to them to cancel his registration on account of his removal from the precinct in which he was registered to another precinct, and they shall receive such certificate from any elector presenting it, and allow him to register, if he be otherwise qualified, in the precinct to which he has removed, if on the day of election he will have been an actual resident in such ward for twenty days immediately preceding such election.

Affidavits of  
sick and dis-  
abled electors.

3. The registrars shall receive affidavits of sick and disabled electors, as required in such preceding sections, and on such days and at their meeting on the evening preceding such election, which shall be held between the hours of five and seven o'clock afternoon, they shall also perform the same duties prescribed in such sections.

Hours for  
registration  
by board.

4. During the week previous to such election, the board of deputy state supervisors may issue orders for registration, which orders, if presented at the meeting for organization, held the evening before such election, shall be received by the registrars and be disposed of as required in such preceding sections.

Additions and  
changes in  
register.

5. Any additions or changes then entered by them in their registers shall also be made in the duplicate list of voters, which, after being carefully compared with the registers and with each other, shall be produced by them, together with the registers of such precincts at the opening of the polls on the day of election, and then used, applied and disposed of by the judges in all respects as directed in such preceding sections.

Organization  
of board  
of judges.

6. At seven o'clock afternoon, preceding any such special election, the registrars for each precinct and the other two judges of election shall meet at the polling place therein appointed for such election, and then and there shall organize as a board of judges and perform the other duties

prescribed in such preceding sections and in the manner therein directed.

7. The poll book required by such preceding sections to be delivered by the judges of election to the clerk of the court of common pleas shall be addressed and delivered by them to the auditor of such city.

Poll books;  
how addressed  
and delivered.

8. The board of canvassers of elections in each such city shall be composed of the board of deputy state supervisors and the city auditor of such city. Within four days after such special election, the "board of canvassers" shall meet at the office of the board of deputy state supervisors in such city at ten o'clock forenoon at the call of the chief deputy state supervisor and organize by electing a chairman and secretary. The returns received by the city auditor shall then be produced by him and opened and canvassed by the board of canvassers, as prescribed in such preceding sections, and by law.

Duties of  
board of  
canvassers.

9. If the board of deputy state supervisors is of the opinion that it is unnecessary to require the registrars of each precinct to attend in each precinct for the registration of voters for a special election, such board may make such other reasonable provisions for transfers and the registration of voters at such election as it deems proper.

Board may  
make other  
reasonable  
regulations  
for registra-  
tion.

10. When a new ward has been created, or the boundaries of any ward or the precincts thereof have been changed after the general registration and before any such special election following, the board of deputy state supervisors shall appoint election officers, rearrange the voting precincts, provide for registration of electors not already registered, make new registers, certify the registration of registered electors whose voting precinct has been changed, and make all necessary arrangements and regulations for holding elections in such new or altered wards and precincts. The right of any registered elector to vote shall not be prejudiced by any error in making out the certified lists of registered voters. (R. S. Sec. 2926v.)

New or al-  
tered wards  
or precincts.

NOTE:—For a special election, such as a bond issue, an opportunity should be given all persons to register but it is not necessary to open all the booths or to call out all registration officers, and public notice should be given when everybody should be given an opportunity to register or transfer.

The action of the board of elections as to the registration of voters in cities where the number and boundaries of the wards are changed under the new municipal code, is controlled by Sec. 2926v-5, Rev. Stat., which provides that whenever any new ward has been created or the boundaries of any ward changed after the general registration and before the April election following, the board of elections shall provide for the registration of electors not already registered, make new registers, and certify the registration of electors whose voting precinct has been changed, and the board of election of a city in such case must follow the course prescribed in said section, and is without authority to hold a general registration prior to the April election, and the expenditure of public funds for such a purpose is a misapplication of the funds of the corporation within the meaning of Sec. 1777 Revised Statutes, and will be enjoined.

Columbus v. City Board of Elections, 13 O. D. 452.

The Brannock Law is not rendered invalid by reason of the possibility that certain persons may be disfranchised at an election thereunder by reason of the construction which may be given to Sec. 2926*v* of the election law. Courts will presume that the true construction of the statute will be adopted and the elections so conducted as to give every elector an opportunity to register and vote.

Jeffrey, Mayor, v. State Ex rel. Butler, 4 C. C. (N. S.) 494.

An elector who registers prior to the November election in the precinct where he then resides is a registered elector in any new or altered precinct which the board of elections may establish, and within the boundaries of which his residence falls.

Columbus v. City Board of Elections, 13 O. D. 452.

Where a special election is held under the Brannock law within a registration city, only the registrars of the precincts within the local option district should attend for the special registration under this section. The board of deputy supervisors should make arrangements and give proper notice to the electors of other precincts so that the board may issue transfers to persons who have removed from precincts outside the resident district to precincts within the resident district. It is not necessary for the registrars to attend to all of the precincts of the city.

Under paragraph 5 of this section, the board has authority, where the boundaries of any precinct have been changed after the general registration, to provide for the registration of electors not already registered and make new registers and certify the registration of registered electors whose voting precinct has been changed, and make all necessary arrangements and regulations for holding elections in such new or altered wards and precincts.

Where a special election is held in a registration city, the registrations provided for in this section should be provided by the board of deputy state supervisors.

Where a special election is held in a registration city for the purpose of submitting the question of the issue of bonds to a vote of the people, special registration must be conducted as provided in this section of the registration law.

#### REGISTRATION EXPENSES.

Compensation  
of deputy state  
supervisors  
and clerks  
in cities.

SECTION 4942. In addition to the compensation provided in section forty-eight hundred and twenty-two, each deputy state supervisor of elections in counties containing cities in which registration is required shall receive for his services the sum of five dollars for each election precinct in such city, and the clerk in such counties, in addition to his compensation so provided, shall receive for his services the sum of six dollars for each election precinct in such cities. The compensation so allowed such officers during any year shall be determined by the number of precincts in such city at the November election of the next preceding year. The compensation paid to each such deputy state supervisor under this section shall in no case be less than one hundred dollars each year and the compensation paid to the clerk under this section shall in no case be less than one hundred twenty-five dollars each year. The additional compensation provided by this section shall be paid monthly from the city treasury on warrants drawn by the city auditor upon vouchers signed by the chief deputy and clerk of the board. (R. S. Sec. 2926*t*.)

SECTION 4943. In such counties containing registration cities, the whole amount of annual compensation paid to each deputy state supervisor and clerk under the preceding section and under section forty-eight hundred and twenty-two, shall not exceed in any year the following:

Maximum compensation of deputy state supervisors and clerks.

In counties containing cities having a population of three hundred thousand or more, as ascertained in the manner hereinbefore provided, each deputy state supervisor, eighteen hundred dollars and the clerk twenty-five hundred dollars;

In counties containing cities having a population of seventy-five thousand and less than three hundred thousand, each deputy state supervisor, fifteen hundred dollars and the clerk, two thousand dollars;

In counties containing cities having a population of fifty thousand and less than seventy-five thousand, each deputy state supervisor, seven hundred fifty dollars and the clerk, nine hundred dollars;

In counties containing cities having a population of twenty-five thousand and less than fifty thousand, each deputy state supervisor, six hundred fifty dollars, and the clerk, eight hundred fifty dollars;

In all other counties containing such registration cities, each deputy state supervisor, three hundred dollars, and the clerk four hundred dollars. (R. S. Sec. 2926t.)

SECTION 4944. The registrars of each election precinct in such cities shall be allowed and paid for their services as registrars four dollars per day and no more for not more than six days at any one election. In registration cities having a population of three hundred thousand or more by the last preceding federal census, the judges of election, including the registrars as judges and the clerks of election, shall each be allowed and paid ten dollars for each general election and five dollars for each special election, at which they serve and no more, either from the city or county. In all other registration cities, the judges of election, including the registrars as judges and clerks of election, shall each be allowed and paid five dollars for each election at which they serve and no more, either from the city or county. No registrar, judge or clerk shall be entitled to the compensation so fixed except upon the allowance and order of the board of deputy state supervisors made at a joint session, certifying that each has fully performed his duty according to law as such, and stating the number of days' service actually performed by each. Such allowance and order shall be certified by the chief deputy and clerk of the board to the city or county auditor. (101 v. 344.)

Compensation of judges and clerks.

Certificate of board.

SECTION 4945. For November elections held in even-numbered years, the county in which such city is located shall pay the general expenses of such election other than the expenses of registration. Such allowance and order of the board for such expenses and compensation to such

Expenses other than registration must be paid by county.

judges and clerks of elections shall be certified by the chief deputy and clerk to the auditor of such county, who shall issue his warrants upon the county treasury for the amounts so certified. (R. S. Sec. 2926t.)

Registration expenses; how paid.

SECTION 4946. The additional compensation of members of the board of deputy state supervisors and of its clerk in such city hereinbefore specified, the lawful compensation of all registrars of electors in such city, the necessary cost of the registers, books, blanks, forms, stationery and supplies provided by the board for the purposes herein authorized, including poll books for special elections, and the cost of the rent, furnishing and supplies for rooms hired by the board for its offices and as places for registration of electors and the holding of elections in such city shall be paid by such city from its general fund. Such expense shall be paid by the treasurer of such city upon vouchers of the board, certified by its chief deputy and clerk and the warrant of the city auditor. Each such voucher shall specify the actual services rendered, the items of supplies furnished and the price of rates charged in detail. (103 v. 545.)

#### REGISTRATION UPON ACTION OF COUNCIL.

Council of other cities and villages may provide for registration.

SECTION 4947. The council of any city or village in which registration is not now required by law may provide for a general registration of electors in the several wards or precincts thereof in the manner and at all times and on the days provided by law for registration in cities which have quadrennial registration. When the council so provides, no person shall have acquired a legal residence in any ward or election precinct in such city or village for the purpose of voting therein at any general or special election, nor shall he be permitted to vote at any election therein unless he shall have caused himself to be registered as an elector in such ward or precinct in the manner and at the time required by law in cities which have quadrennial registration. (98 v. 270 § 1.)

NOTE:—The compensation of judges and clerks in cities which have provided for registration is governed by section 4944, the latter not being made applicable to villages. Atty. Gen. 11-18-08.

In cities having population in excess of 11,800, the council has no authority relating to registration. Atty. Gen. 8-4-09.

Although a village possess an ordinance for registration, such registration can not be had for the first time until the presidential year.

## CHAPTER 6. PRIMARY ELECTIONS.

### SECTION

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4949. How candidates for public offices shall be nominated.
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SECTION 4948. Unless inconsistent with the context, the words and phrases in this chapter shall be construed as follows:

How certain words and phrases construed.

The word "primary", the primary election provided for in this chapter, to nominate candidates to be voted for at the ensuing election.

The words "November election", the election held on the first Tuesday after the first Monday in November, in any year.

The words "general election", the November election in the years when state and county officers are to be elected.

The word "precinct", a district established by authority of law within which all qualified electors vote at one polling place.

The word "district", any election district, circuit or other subdivision of the state comprising more than one county or part of county within which an officer or officers are to be elected. (99 v. 214 § 1.)

NOTE:— The nomination of party candidates for public office concerns the public welfare and the legislature in the exercise of the police power may make reasonable regulations therefor. State ex rel. Webber v. Felton, 77 O. S. 554.

How candidates for public offices shall be nominated.

SEC. 4949. Candidates for member of the senate and house of representatives in the congress of the United States and for all elective state, district, county and municipal offices, delegates and alternates to national and state conventions and members of the controlling committees of all voluntary political parties or associations in this state which at the next preceding general election polled for its candidate for governor in the state or any district, county or subdivision thereof, or municipality, at least ten per cent of the entire vote cast therein for governor, shall be nominated or selected in such state, district, subdivision or municipality, in accordance with the provisions of this chapter, and persons not so nominated shall not be considered candidates and their names shall not be printed on the official ballots, nor shall delegates or alternates to such conventions, or party controlling committees whose members have not been so selected, be recognized by any board or officer. (104 v. 9.)

NOTE:— All political parties in any political division named in this section, which, at the last general election cast ten per cent. or more of the entire vote in that political division must make their nominations according to this primary election law. Atty. Gen. 3-24-1909.

The primary election law contains no provision for notice to be given to electors, either of the holding of county primaries, or of primaries to nominate candidates for township or municipal officers or members of the school board. Atty. Gen. 7-26-1909.

If in any political division a political party has cast more than ten per cent. of the votes cast in such subdivision then its nominations within and for such subdivision must be made under the provisions of the compulsory primary law. The duty of a political party under said primary law is determined by its vote in the political subdivision. Atty. Gen. 4-28-1910.

Provisions for nomination of candidates by petition not repealed.

SECTION 4950. Nothing in this chapter shall repeal the provisions of law relating to the nomination of candidates for office by petition, and no elector shall be disqualified from signing a petition for such nomination of candidates for office by petition, because such elector voted at a primary provided for herein to nominate candidates to be voted for at the same election or because such elector signed nomination papers for such primary. (103 v. 476.)

These provisions shall not apply to elective offices of townships or municipalities having a population less than 2,000.

SECTION 4951. The provisions of this chapter shall not extend nor be applicable to the nomination of candidates for township offices or for the elective offices of any municipality which has less than two thousand population as ascertained by the federal census next preceding such nomi-

nations unless the voters of such township or municipality shall so petition the board of deputy state supervisors of elections, which petition shall be filed at least ninety days before the regular date for holding the primary to nominate the officers mentioned in this section and shall be signed by qualified electors of such township or municipality equalling in number at least a majority of votes cast in such township or municipality at the last general election therein. In the event that such petition is filed then all nominations of party candidates in such township or municipality shall be made as in this chapter provided. (103 v. 476.)

Exception.

Primary elections may not be held for the nomination of township officers unless petitioned for by a majority of electors of such township. Atty. Gen. 4-30-15.

SEC. 4952. Candidates for state offices, United States senator and congressman-at-large shall be nominated by direct vote of the people in the manner following: Each person so desiring to become a candidate for an office above enumerated shall not less than sixty days before the date of the primary election at which such nominations are to be made, file with the state supervisor of elections a declaration of candidacy signed and acknowledged and certified to by a certificate of five electors of the state who are members of the political party to which such candidate belongs, and shall pay to such state supervisor the proper fee. (106 v. 542.)

Candidates for state offices, U. S. senator and congressman-at-large nominated by direct vote.

Declaration of candidacy; contents; time of filing; fee.

SEC. 4952-1. Candidates for district offices where such district includes more than one county, which shall include all candidates for member of the house of representatives in the congress of the United States, other than congressman-at-large, shall be nominated by the direct vote of the people in the manner following: Each person desiring to become a candidate for election to such office in this state shall not less than sixty days before the date of the primary election fixed by law to be held in the even numbered years, file with the clerk of the board of deputy state supervisors of elections of the county in which such candidate resides, a declaration of candidacy signed and acknowledged and certified to by a certificate of five electors of the district who are members of the political party to which such candidate belongs, and shall pay the clerk the proper fee. Whereupon, except where such candidate resides in the most populous county in the district, such clerk shall certify the declaration of candidacy and certificate to the clerk of the board of deputy state supervisors of elections of the most populous county of the district, and cover the fee so paid into the county treasury of the county in which such candidate resides. Not less than forty days before such primary said clerk shall certify all nominations so certified to him or filed in his office, to the boards of deputy state supervisors of each county in such district who shall enter the names so certified on the proper ballots to be used at

Candidates for district offices nominated by direct vote.

Declaration of candidacy; contents; time and place of filing; fee.

Time of certifying nominations.

Certifying results of primary election to most populous county.

Time of certifying nominations by board of most populous county.

Nomination of candidates for presidential elector by delegate state convention.

Time of holding convention and apportionment of delegates.

Party platform.

Election of delegates and alternates to national convention.

Declaration of candidacy and certificate; statement in writing as to choice of presidential candidates.

Name of first and second choice shall appear on ballot.

the primary. Such boards of deputy state supervisors shall certify the results of the primary election on such candidates to the board of deputy state supervisors of elections of such most populous county in the manner provided under the general election laws, which board shall ascertain and declare the results and shall, not less than forty days before the November election, certify all such nominations so made to the boards of deputy state supervisors of the counties comprising the district who shall cause the same to be printed on the proper tickets as provided by law. (106 v. 542.)

SECTION 4953. Candidates for presidential elector shall be nominated by delegate state conventions, the delegates to which shall be chosen at a primary election which shall be held on the last Tuesday in April, 1916, and similarly every fourth year thereafter. The state committee of each political party shall determine the time and place for holding the state convention of such party and shall apportion the delegates and alternates throughout the state in proportion to its party vote for governor cast in the several counties at the last preceding general election. Each state committee shall also by resolution determine the ratio of representation in such state convention. In addition to nominating candidates for presidential elector such state convention shall formulate the state party platform for that year. (103 v. 478.)

SEC. 4954. At the primary election which shall be held on the last Tuesday in April in the year 1916, and similarly in every fourth year thereafter, delegates and alternates-at-large to the national conventions of the different political parties shall be chosen by direct vote of the electors in the manner prescribed in this chapter for the nomination of candidates for state offices, and candidates for election as delegates and alternates to such conventions from districts within the state shall be chosen by direct vote of the electors in the manner prescribed in this chapter for the nomination of candidates for district offices. Each person seeking to be elected as delegate or alternate to such national convention shall file with his declaration of candidacy and certificate, a statement in writing signed by him in which he shall state his first and second choice for nomination as candidate of his party for the presidency of the United States and the state supervisor of elections shall not permit any declaration of candidacy and certificate of a candidate for election as such delegate or alternate to be filed unless accompanied by such statement in writing; providing always, however, that the name of no candidate for the presidency shall be so used without his written consent. The name of such first and second choice for nomination as candidate for the presidency of each candidate for election as such delegate or alternate shall be printed and appear on the primary ballots immediately below the name of such candidate in such a way as to clearly disclose the preference of each candidate. Each

candidate for election as such delegate or alternate may also file along with his declaration of candidacy and certificate a statement in writing signed by him in the following form:

Statement of candidate for election

(alternate)  
as (delegate) to the (here insert name of political party) national convention.

Form of statement of candidate.

I hereby declare to the voters of my political party in (alternate) the state of Ohio that, if elected as (delegate) to their national party convention, I shall, to the best of my judgment and ability, support that candidate for president of the United States who shall have been selected at this primary by the voters of my party in the manner provided in this chapter as their candidate for such office.

.....

(alternate)  
For signature of candidate for (delegate)  
(106 v. 543.)

SEC. 4955. At a primary election which shall be held on the last Tuesday in April in the year 1916 and similarly in every fourth year thereafter the qualified voters of the several political parties shall be given an opportunity, on separate party ballots provided for that purpose and apart from those for other offices, to express their preference as to the nominees for their respective parties for president and vice-president of the United States in the following manner: Nomination papers for each candidate for nomination for president or vice-president may be filed in the same manner as for candidates for a state office, except that any such candidate may designate any duly qualified elector of the state who is a member of the same political party, as his representative, who may sign the declaration herein provided for, in which case such candidate for nomination as president or vice-president shall not be required to sign or file any petition, affidavit, declaration, statement or paper of any kind to get his name upon the ballot at such primary. Any candidate for nomination for the office of president or vice-president, may on or before the forty-fifth day before the date of such primary, withdraw his name as a candidate for such office and notify the state supervisor of elections that he is not a candidate for such nomination and that he does not wish his name to be printed upon the ballot for such election, in which event said state supervisor shall not cause nor permit such name to be or appear on such ballot. Not less than forty days before the primary the state supervisor of elections shall certify the names of all candidates for such nominations which have been duly presented and not withdrawn, to the boards of deputy state supervisors of the several counties in the state who shall enter such names on a separate ballot from that containing

Presidential preference primary.

Nomination papers, how and when filed.

Declaration of candidacy.

Withdrawal of name as candidate.

Names of candidates shall be certified to deputy state supervisors.

Separate tickets for each political party; form of ballot.

Result of vote certified to state supervisor.

Nominations certified to deputy state supervisors.

When nominations certified to boards of deputy state supervisors.

Controlling committees elected by direct vote.

State central committee—one member from each congressional district.  
 District committee—the chairman of each of the several county central committees.  
 County central committee—one member from each precinct, or from each ward and township.  
 Committee-men shall be chosen by direct vote.  
 How candidates shall be nominated.

the names of candidates for other nominations. Separate tickets shall be provided for each political party on which the names of the candidate of such party shall be printed. Such tickets shall conform, as nearly as practicable, to the form of the ballot provided in this title for the nomination of candidates for state offices. At the head of each ticket there shall be printed the words "Presidential Preference Ticket." The ballots voted at such election shall be deposited in separate ballot boxes and shall be counted and the result of the vote thereon certified by the boards of deputy state supervisors of elections of the several counties of the state to the state supervisor of elections in the manner provided for certifying the returns of the vote at such primary for candidates for the nomination as state officers. Such state supervisor shall canvass these returns in the manner provided by law for canvassing the returns in the case of candidates for nomination as state officers and shall forthwith certify the results of such canvass as regards the candidates for nomination in each political party to the persons chosen as delegates or alternates to the national convention of such party. (106 v. 545.)

SECTION 4956. Not less than forty days before the date of any primary election the state supervisor of elections shall certify to the several proper boards of deputy state supervisors the nominations filed with him together with forms of official ballots for the use of each board and such boards shall cause all such nominations to be entered on the proper primary ballots in their respective counties. (103 v. 480.)

SECTION 4959. All members of controlling committees of political parties shall be elected, by direct vote, except as otherwise provided herein. Their names shall be placed upon the official ballot as hereinafter provided. The person receiving the highest number of votes for committeeman shall be the member of such controlling committee. (103 v. 480.)

SEC. 4960. The controlling committees of each voluntary political party or organization shall be a state central committee, consisting of one member from each congressional district in the state; a district committee for each district in the state, including congressional districts, which shall consist of the chairman of the county central committees of the several counties composing such district; a county central committee, consisting of one member from each precinct in the county, or of one member from each ward and township in the county as the outgoing committee may determine, and the members of the central committee chosen from a city shall constitute a city committee. All of the members of such committee shall be chosen by direct vote at the primary held in the even numbered years. Candidates for election as state central committeemen may be nominated in the same manner as is herein provided for the nomination at primaries of candidates for district offices and candidates for election as members of the county cen-

tral committee may be nominated in the manner provided in section 4969 of the General Code. Existing state, district, county and city committees shall continue to act and be recognized as such, until their successors are chosen as herein provided. Where a judicial subdivision or district or congressional district is included within a county, the members of the county central committee who are residents of such district shall also act as the judicial or congressional committee. (106 v. 544.)

When county central committee shall act as district committee.

SECTION 4961. Within fifteen days after their selection all such state and county central committees shall meet and organize by the election of a chairman and secretary, and shall elect an executive committee. (103 v. 480.)

Time for organization of committees.

SECTION 4962. All party controlling committees, the selection of which is herein provided for, shall serve for two years and until their successors are selected. In case of vacancies caused by death, resignation or removal from the territory from which the committeeman was chosen, the committee of which he was a member shall fill the vacancy by majority vote. (99 v. 217 § 10.)

Term of service; vacancies.

SEC. 4963. Primaries under this chapter to nominate candidates for member of the house of representatives in the congress of the United States, and for all elective state, district and county offices, and to select committeemen, shall be held in each county at the usual polling places on the second Tuesday in August of the even numbered years; and primaries under this chapter to nominate candidates for township and municipal offices, justices of the peace and members of boards of education, shall be held in each county at the usual polling places on the second Tuesday in August of the odd numbered years. Primaries to nominate candidates for United States senator shall be held on the second Tuesday in August of the years in which such senators are to be elected. (104 v. 9.)

Time of holding primaries for state, district and county candidates.

Time of holding primaries for township and municipal candidates.

Nomination of U. S. senator.

SEC. 4964. When a call is issued for a special election, the date of the primary shall be fixed at the same time and in the same manner by the authority calling such special election, which primary, shall be held at least two weeks prior to the time fixed for such special election. Declaration of candidacy and certificates for such primary shall be filed and fees shall be paid at least ten days before the date for holding the same and such election shall be called so as to allow at least five days for preparing and filing such nomination papers. (106 v. 544.)

How primary fixed for special election.

Declaration of candidacy; date of filing; fee.

SECTION 4967. County boards of deputy state supervisors of elections shall have all the powers granted and perform all the duties imposed by the laws governing general elections, including furnishing materials and supplies, printing and distributing ballots, providing voting places, protecting electors, guarding the secrecy of the ballot, and making rules and regulations not inconsistent with law, for the guidance of election officers. All statutory provisions

Powers and duties of boards of deputy state supervisors.

relating to general elections, including the requirement that part of such election day shall be a legal holiday, shall, so far as applicable, apply to and govern primary elections. (103 v. 481.)

Nominations for offices not heretofore provided for.

Declaration of candidacy; date of filing; fee.

SEC. 4969. All nominations for offices or places on the primary ballot other than those heretofore provided for shall be made by the payment of the proper fees and by the filing of declarations of candidacy and certificates, which shall be filed with the board of deputy state supervisors at least sixty days before the day for holding the primary election. Such declarations of candidacy shall be signed and acknowledged by the person desiring to become a candidate and shall be accompanied by the certificate of five electors of the county, municipality, precinct, ward or other political subdivision for which such nomination is to be made and shall be in the form hereinafter provided. Where the term "nomination paper" or "nominating petition" is used in this chapter it shall be held to include "declaration of candidacy" and any other paper required by law to be filed by a person seeking to become a candidate at a primary election. (106 v. 545.)

Nominations where district situated in more than one county.

Declaration of candidacy; time and place of filing; fee and where paid.

SEC. 4969-1. In case of declarations of candidacy for candidates for public office in a municipality or school district situated in more than one county, such declarations shall be filed as above limited with the board of deputy state supervisors of the county containing the majority population of such municipality or school district, which board shall certify the same forthwith to the board or boards of the county or counties containing the other parts of such municipality or school district. When a fee is required such fee shall be paid into the treasury of the county in which such declaration of candidacy is filed. When such board or boards of the county or counties containing the other part or parts of such municipality or district shall have canvassed the returns of the primary in such municipality or district received by them they shall certify the result to the board of the county containing such majority population which board shall ascertain and declare the result of the primary and shall forthwith certify the name or names of the successful candidate or candidates to the boards of such other counties to be placed on the official ballot at the election. (106 v. 545.)

Canvassing returns and certifying results in such cases.

What names shall be printed on the ballot.

SEC. 4970. The name of no candidate for office or for committeeman or delegate or alternate shall be printed upon an official ballot used at any primary unless prior to the beginning of the period limited by law, a declaration of candidacy and certificate shall have been filed with the state supervisor of elections or with the board of deputy state supervisors in his behalf in substantially the following form:

DECLARATION OF CANDIDACY FOR THE OFFICE OF PRESIDENT OR VICE-PRESIDENT OF THE UNITED STATES.

I, ..... hereby declare that I am a resident of the state of ..... and a qualified elector of such state. I am a member of the ..... party and am a candidate for nomination to the office of ..... subject to the action of the national convention of such party, to which delegates will be elected in the state of ..... at a primary to be held on the ..... day of ..... 19... I hereby request that my name be printed on the official primary ballot as provided by law as a candidate of the ..... party, and further declare that if nominated and elected, I will qualify as ..... and will support and abide by the principles of the ..... party as adopted and declared in its national platform.

Forms of declaration of candidacy.

Dated this ..... day of ..... 19....

..... Signature of candidate or authorized representative.

Witnessed by

.....

DECLARATION OF CANDIDACY FOR OFFICE OTHER THAN THAT OF PRESIDENT OR VICE-PRESIDENT OF THE UNITED STATES.

I, ..... hereby declare that I reside at No. .... street, in the ..... of ..... (or in precinct ..... township) county of ..... Ohio, and am a qualified elector therein. I am a member of the ..... party and intend to vote for a majority of the candidates of such party at the coming election. At the last general election (did not vote (I voted for a majority of the candidates of such party at such election). I hereby declare myself a candidate for nomination to the office of ..... to be made at the primary election to be held on the ..... day of ....., 19...., and hereby request that my name be printed upon the official primary ballot as provided by law as a candidate of the ..... party.

I further declare that, if nominated and elected, I will qualify as ..... and that I will support and abide by the principles enumerated by the ..... party in its national platform and in its platform in this state adopted during the present year.

Dated this ..... day of ..... 19....

..... Signature of candidate.

The State of Ohio, County of ..... ss.

Personally appeared before me the undersigned a ..... in and for said county, this ..... day of ..... A. D. 19...., the above named ....., who acknowledged the signing of the above declaration to be his free act and deed and that the statements made therein were true as he verily believed.

Witness my hand and official seal ..... on the day and year last aforesaid .....

CERTIFICATE OF FIVE ELECTORS WHICH SHALL BE FILED WITH EACH DECLARATION OF CANDIDACY.

Certificate of electors.

We, the undersigned, qualified electors of the state of Ohio, and of the county, city, township, ward and precinct set opposite our names, and members of the ..... party, hereby certify that ..... who resides at No. .... on ..... street of ..... city of ..... or (in the township of ..... ) in the county of ....., and who is a candidate for the office (or position) of (here specify office or position) ..... to be voted for at the primary next hereafter to be held, and whose declaration of candidacy is herewith filed, is a member of the ..... party, and is well qualified to perform the duties of the office for which he is a candidate.

.....	.....	.....	.....	.....
Signatures	Residence	Ward	Precinct	Township
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....

The State of Ohio, County of ..... ss.

Personally appeared before me the undersigned, a ....., in and for said county, this ..... day of ..... A. D. 19.... above named ....., and ..... who each severally acknowledge the signing of the above certificate to be his free act and deed and that the statements made therein were true as he verily believed.

Witness my hand and official seal ..... on the day and year last aforesaid .....

In the case of a candidate for office other than for committeeman, delegate or alternate or president or vice-president of the United States, the proper fee must also be paid at the time of filing the declaration of candidacy. (106 v. 546.)

SEC. 4970-1. At the time of filing the declaration of candidacy for nomination for any office, each candidate shall pay a fee of one-half of one per cent., of the annual salary for such office, but in no case shall such fee be more than twenty-five dollars. All fees so paid in the case of candidates for state offices, office of United States senator and congressman-at-large, shall forthwith be paid by the officer receiving the same into the treasury of state. All other fees shall be paid by the officer receiving the same into the treasury of his county to the credit of the county fund. No fee shall be required in the case of candidates for committeeman or delegate or alternate to a convention or for president or vice-president of the United States, nor for offices for which no salary is paid. (106 v. 548.)

Fee required and where paid.

Candidates from whom no fee required.

SEC. 4973. Each candidate shall state in his declaration of candidacy that he will qualify as such officer if nominated and elected, and each candidate shall also state in his declaration that he will support and abide by the principles enumerated by his political party in such national or state platform as may have been adopted by it prior to such primary in the year in which he is seeking such nomination, or which may be subsequently adopted.

Declaration of candidate—what it shall contain.

NOTE:—Candidates for delegates and committeeman must file declarations of acceptance the same as any other officer.

SEC. 4974. Protests in writing against the candidacy of any person seeking to become a candidate of any political party may be filed only by a recognized member of such party or by the controlling committee thereof. Such protests shall be filed with the state supervisor of elections in all cases in which the declaration of candidacy shall have been filed with him and in cases in which such paper shall have been filed with a board of deputy state supervisors the protests shall be filed with such board. In the case of protests filed with the state supervisor of elections he shall hear and determine the same and his decision shall be final. In the case of protests filed against the candidacy of a person in a district comprising more than one county the same shall be heard and determined by the chief deputies and clerks of the board of deputy state supervisors of the several counties comprising such district and their decision shall be final. In the case of protests filed against candidates for county offices or offices of a district lying within a county, the same shall be heard and determined by the board of deputy state supervisors of such county and its decision shall be final. In case of candidates for office in municipalities or school districts situated in more than one county, the same shall be submitted to the board of deputy state supervisors of the county in which the declaration of candidacy were filed and its decision shall be final. If it is found that such candidate is not an elector of the state, or of the district or county in which he seeks to become a candidate, or has not fully complied with the provisions of law as herein provided, his name shall be withdrawn and shall not be printed upon the ballot; but no declaration of

Protests against candidacy; where filed.

Hearing and determination of protests.

Transmission  
of certifi-  
cates.

candidacy shall be rejected for mere technical defects. Certificates shall be transmitted in the manner provided in this title for the transmission of certificates of nomination. (106 v. 549.)

Provisions as  
to registra-  
tion.

SECTION 4975. The board of deputy state supervisors in municipalities where registration of electors is required by law, shall, prior to any primary election, make such provision as shall be necessary and reasonable for the transfer upon the registration books and the registration of all persons, not previously registered, who may qualify themselves to vote at the ensuing November election. No person shall be admitted to vote at any primary election, in such municipalities, unless he shall have caused himself to be registered as an elector therein, in the manner provided by law for the registration of electors. (99 v. 220 § 22.)

Separate  
tickets.

SECTION 4976. Separate tickets shall be provided for each political party entitled to participate in such primary. Such tickets shall contain the names of all persons whose names have been duly presented and not withdrawn, arranged under the designation of the office in alphabetical order, according to surnames, and bear the official signatures of the members of the board of deputy state supervisors. Such ticket shall conform, as nearly as practicable, to the form of ballot provided in this title for the use of electors in the election of public officers, except that no device or circle shall be used at the head of such tickets. On the back thereof shall be printed the words, "Official Ballot" and "Primary Election," and the name of the political party for which such ballot is printed. (90 v. 220 § 23.)

NOTE: — There must be a separate space on the ballot for each office, for which a nomination is to be made. Atty. Gen. 4-7-10.

The ticket at a primary may be printed in more than one column, if more convenient for the board of deputy supervisors or the electors.

An elector who has filed nomination papers may withdraw his name as a candidate. After a candidate has withdrawn his name and his withdrawal has been accepted by the board, the board is without authority to reconsider its acceptance, and such elector may thereafter have his name placed upon the official ballot only by nomination papers, as provided in the first instance. Atty. Gen. 5-6-10.

The voter may write in a blank space, or substitute for any name on his party ballot, the name of another person of the same political party faith. Atty. Gen. 10-9-09.

Election, how  
conducted.

SECTION 4977. On each day designated in this chapter for holding primary elections, a full board of election officers shall be assigned to duty at each polling place, and such election officers shall jointly conduct the election as to all parties. The regular judges and clerks of elections shall be the judges and clerks of primary elections, and shall be charged with the same powers and duties, and be subject to the same penalties as are provided by law for the conduct of general elections. There shall be separate poll books, tally sheets and ballot boxes provided at each voting place for each party participating in the election,

and the ballot of each voter shall be placed in the ballot box of the party with which he affiliates. Each ballot box shall be plainly marked with the name of the political party whose ballots are to be placed therein, by letters printed thereon or by a card attached thereto, or both, and so placed that the designation may be easily read. (99 v. 220 § 24.)

SECTION 4978. Upon application in writing of the respective controlling committees, the judges of election shall admit to the polling room one challenger and one witness for each candidate whose name appears on the ballot for the office at the head of the ticket. Such challenger and witness shall be appointed in writing by the candidates on whose behalf he serves. Such challengers and witnesses shall have the same privileges and be subject to the same regulations as are prescribed by law for the challengers and witnesses at general elections.

Challengers  
and wit-  
nesses.

The judges of election of each precinct, upon the written application of any five or more candidates, shall admit to the polling room one challenger and one inspector. The applications must be signed by the candidates in person in the presence of two witnesses. No candidate shall sign an application for more than one challenger and one inspector at any one polling place. Such inspector shall have the right to inspect the ballots and ballot box before the voting begins, and the challenger shall have such rights and privileges and be subject to the same regulations as are prescribed by law for challengers at general elections. The inspector shall have the right to enter the polling place at any time after five o'clock in the afternoon and remain until the ballots are all counted. He shall have the right to inspect the ballot box, tally sheets and poll books and also to witness the counting of the ballots, and inspect the same while being counted, or afterwards. A person serving as challenger is eligible to serve as inspector. All of the judges and clerks conducting said primary election shall participate in the count and tabulation of all the votes cast. Any judge who refuses to admit to the polling place any challenger, or inspector, who presents a proper application signed and witnessed as herein provided, or any challenger, or inspector, who knowingly presents a false application to the judges of election, shall be fined not less than fifty dollars nor more than two hundred dollars and imprisoned in the county jail not less than thirty days.

Application.

Inspection.

SECTION 4979. During the time the polls are open, it shall be unlawful for any person within one hundred feet of the polling place of any primary election to give, tender, or exhibit any ballot or ticket to any person other than to a judge of the election, or to exhibit any ticket which he intends to cast, or within such distance so solicit or in any way attempt to influence any elector in casting his vote. (99 v. 224 § 41.)

Unlawful to  
exhibit ticket  
within one  
hundred feet.

Who may  
vote; causes  
of challenge.

SECTION 4980. At such election only legally qualified electors or such as will be legally qualified electors at the next ensuing general election may vote and all such electors may vote only in the election precinct where they reside, and it shall be the duty of the challengers and of the judges, and the right of any elector, whenever there is reason to doubt the legality of any vote that may be offered, to interpose a challenge. The cause of a challenge shall be: That the person challenged has received or been promised some valuable reward or consideration for his vote; that he has not previously affiliated with the party whose ticket he now desires to vote. Affiliation shall be determined by the vote of the elector making application to vote, at the last general election held in even numbered years. (99 v. 221 § 26.)

NOTE:— A minor who will be qualified to vote at the election next succeeding a primary election may vote at such primary. Atty. Gen. 8-30-07.

Women may vote for candidates for nomination on the party tickets for members of the board of education. Atty. Gen. 6-14-09.

Oath.

SECTION 4981. Before any challenged person shall be allowed to vote, he shall make and subscribe an affidavit duly sworn to, before one of the judges, who are hereby authorized and empowered to administer such oaths, blanks for which shall be furnished by the board of deputy state supervisors, giving age, residence, nationality, citizenship party allegiance, length of residence in the voting precinct, county and state, and all other facts necessary to disclose whether he is a legal voter at such election, which affidavit shall be returned to the office of the board with the poll books and tally sheets. (99 v. 221 § 27.)

Vote rejected,  
when.

SECTION 4982. If a person challenged refuses to be sworn, or being sworn, refuses to answer any questions, or if his answers show that he lacks any of the qualifications herein required to make him a legal voter at such primary election, his vote shall be rejected. The judges, or either of them, shall have the power to make further investigation, and he or they may call and examine witnesses as to the qualifications of the person challenged, and, if the judges of the party to which the person asking the ticket claims affiliation are not satisfied that he is a legal voter under this chapter, they shall reject his vote. (90 v. 221 § 27.)

Canvass of  
vote.

SECTION 4983. At the close of the polls, the judges and clerks shall proceed without delay to canvass the vote, sign and seal it, and make return forthwith thereof to the board of deputy state supervisors. If there are any tickets cast and counted or left uncounted concerning the legality of which there is any doubt or difference of opinion in the minds of the judges of elections, they shall be sealed up and marked, "disputed ballots," and returned to such board, with the statement as to whether they have or have not been counted, and, if counted, what party and for whom. Such ballots shall be preserved by the board for such

judicial or other investigation, as may be ordered by the controlling committee of the party for whom they were voted. (99 v. 221 § 228.)

NOTE:—The board is without authority to hear evidence to contradict or explain the tally sheets, or act upon information not appearing on their face, or to open or count ballots returned by the precinct officers, as uncounted ballots, concerning the legality of which, doubt or difference of opinion existed in the minds of the judges of election. State ex rel. v. Tanzy et al., 49 O. S. 656.

SECTION 4984. On the following Thursday after the primary at ten o'clock forenoon the board of deputy state supervisors of elections of each county shall meet and canvass the vote and certify the result or declare the same in the manner hereinafter provided. The controlling committee of any party participating in the primary shall have one representative present during the canvass. In the case of candidates for nomination by primary whose nomination papers are required to be filed with the state supervisor of elections such boards of deputy state supervisors shall, on blanks provided for that purpose, make full and accurate returns of votes cast for each candidate and shall certify duplicate copies thereof to the state supervisor who shall proceed to canvass all of the votes cast for the respective candidates above mentioned and shall declare the result, and shall, not less than forty days before the election, certify the same together with a form of official ballot therefor to the proper boards of deputy state supervisors of the several counties of the state. In case of nominations for offices in districts comprising more than one county, the boards of deputy state supervisors of elections in such counties shall certify the results of the primary as regards such district candidates to the board of deputy state supervisors of the county in such district in which the nomination papers were originally filed, which board shall proceed to canvass all of the returns so made of the votes cast for the respective candidates and shall declare the result and certify the names of the successful candidates to the boards of deputy state supervisors of the several counties comprising such district to be placed on the ballot. In case of nominations for offices within a county the results of the primary shall be declared by the board of deputy state supervisors of such county. (103 v. 484.)

Canvass of  
vote and cer-  
tifying result  
by deputy  
state super-  
visors.

SECTION 4984-1. That in the event of any office for which nominations are sought to be made at any primary election, and for which no nominating petitions or declarations of candidacy have been filed within the time prescribed by law by or in behalf of any candidate of a political party, so that insofar as such office is concerned, there is a vacancy on the primary ballot to be nominated, no valid nomination shall be made for such office unless the name of the person attempted to be nominated and receiving the highest number of votes for said office, shall have been writ-

Per cent of  
ballots writ-  
ten on re-  
quired to  
nominate at  
primary when  
no nominating  
petition filed.

ten on at least eight per cent of all the ballots containing such vacancy, which have been voted at such primary election. (106 v. 207.)

Names of nominees must be placed upon ballot.

SECTION 4985. When the primary has been held to make nominations of candidates to be voted for at the ensuing November election, the board of deputy state supervisors shall place the names of the persons so nominated upon the official ballot as the candidates of the respective political parties nominating them. (99 v. 222 § 30.)

Certificates of election to delegates and alternates.

SECTION 4986. If the primary has been held to elect delegates and alternates to a national convention, the several boards of deputy state supervisors and the state supervisor of elections shall perform the same duties with regard to such election as with regard to the nomination of candidates for state and district offices. Returns shall be made and canvassed in a similar manner as for state and district offices and such state supervisor, or boards of deputy state supervisors, shall, without fee, make and, upon demand, deliver to the persons who may have been chosen, certificates of their election. And no other delegate or alternate shall be entitled to sit, or participate, in such convention. A list of the delegates and alternates of each party who may have been chosen, shall be filed and kept in the office of such state supervisor for one year. (103 v. 485.)

Certificates of election to members of committee.

SECTION 4987. If members of a state central committee have been elected at any primary election, the several boards of deputy state supervisors and the state supervisor of elections shall perform the same duties with regard to the election of such committees as with regard to the nomination of candidates for district offices. Returns shall be made and canvassed as for such nomination. And said state supervisor shall, without fee, and upon demand, deliver to the persons elected, certificates of their election. A list of committeemen of each party who may have been thus chosen shall be filed and kept in the office of such state supervisor of elections for two years and it shall be the official roll of the committee. In like manner if members of a county central committee or delegates to a state convention have been elected the board of deputy state supervisors of elections shall perform the same duties with regard to the election of such committeemen as with regard to the nomination of candidates for township offices. Returns shall be made and canvassed as for such nominations and said board of deputy state supervisors shall without fee, and upon demand, deliver to the persons who may have been chosen certificates of their election. A list of committeemen of each party who may have been chosen shall be filed and kept in the office of such board for two years and it shall be the official roll of the committee. (103 v. 485.)

List of committeemen filed in office of state supervisor.

How result determined in cases of tie vote.

SECTION 4988. When at any primary there is a tie vote for nomination or election in any case in which the nomination papers have been filed with the state supervisor of elections the candidates having the highest and equal

number of votes shall, after due notice, within ten days and in the presence of such state supervisor at the time and place to be fixed by him, determine the result by lot. If they fail to do so, such state supervisor shall determine the result in a similar manner. In the event of a tie vote in other cases the candidates having the highest and equal number of votes shall, after due notice, within five days in the presence of the board of deputy state supervisors with which the nomination papers were filed at a time and place to be fixed by such board, determine the result by lot and if the candidates fail to do so such board shall be authorized to determine the same in a similar manner. (103 v. 486.)

SECTION 4989. In case of a vacancy or vacancies in the list of nominations occurring by death or otherwise, after the result has been declared, such vacancy or vacancies shall be filled by the proper controlling committee of the party in which such vacancy, or vacancies, occur, and the names of the candidates, delegates or committeemen, as the case may be, selected by such committee, shall, in the case of offices, the nomination papers for which have to be filed with the state supervisor of elections, be reported to such state supervisor and, in the case of other offices, shall be reported to the proper board or boards of deputy state supervisors, and such state supervisor or board, or boards, shall cause such name or names to be placed on the official ballots, lists or rolls. (103 v. 486.)

Vacancies,  
how filled.

NOTE:—This procedure applies to vacancies occurring after the declaration of the result of the primary election, and to vacancies in the list of nominations actually made at the primary election only. Atty. Gen. 8-13-09.

This section does not authorize the filling of a vacancy resulting from failure to nominate a candidate for such office at the primary election. Atty. Gen. 8-18-09.

See Sec. 4984-1.

SECTION 4990. For their services in conducting primary elections, members of boards of deputy state supervisors shall each receive for his services the sum of two dollars for each election precinct in his respective county, and the clerk shall receive for his services the sum of three dollars for each election precinct in his county, and judges and clerks of election shall receive the same compensation as is provided by law for such officers at general elections. (99 v. 223 § 35.)

Compensation  
of election  
officers.

SECTION 4991. All expenses of primary elections, including cost of supplies for election precincts and compensation of the members and clerks of boards of deputy state supervisors, and judges and clerks of election, shall be paid in the manner provided by law for the payment of similar expenses for general elections except that the expenses of primary elections in political divisions less than a county shall be a charge against the township, city, village or political division in which said election was held, and the amount so paid by the county shall be retained by the county auditor, from funds due such township, city, village

Expenses, how  
apportioned  
and paid.

or political division, at the time of making the semi-annual distribution of taxes. The amount of such expenses shall be ascertained and apportioned by the deputy state supervisors to the several political divisions and certified to the county auditor. In municipalities situated in two or more counties, the proportion of expense charged to each of such counties shall be ascertained and apportioned by the clerk or auditor of the municipality and certified by him to the several county auditors.

County commissioners, township trustees, councils, boards of education or other authorities, authorized to levy taxes, shall make the necessary levy to meet such expenses. (103 v. 510.)

Party platform, when and by whom framed.

SECTION 4991-1. In the year 1914, and every fourth year thereafter, the candidates for state offices, except judicial offices, the candidates for member of the general assembly, the members of the state executive and central committees and the chairmen of the county central and executive committees of each political party which shall have selected candidates at the primary election of such year shall meet at such place as the state central committee of such party may designate on the second Tuesday after such primary and shall forthwith formulate the state platform of such party, which said state platform of each political party shall be so framed at such time that it shall be made public not later than six o'clock in the afternoon of the following Thursday. (103 v. 486.)

## CHAPTER 7. NOMINATION OF CANDIDATES.

### SECTION

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 5015. Transmission of certified copies of certificates.

SECTION 4992. Except as provided by the preceding chapter of this title, nominations of candidates for public office may be made as herein prescribed. (103 v. 843.) Nomination of candidates.

NOTE:—A citizen's ticket, nominated by petition, and which polled at least one percent. of the entire vote, does not entitle a similar ticket to a place on the ballot at a subsequent election, without a petition as provided by sections 4996 and 4999. Only those parties which have a state organization, and which cast the requisite number of votes in the entire state are entitled to representation on the ballot as a party.

Where a "citizens' ticket" has been nominated by a caucus or convention and the certificate thereof filed with the board of deputy state supervisors, it is the duty of the deputy state supervisors to disregard and reject such ticket. The proper manner for electors to procure the nomination of a citizens' ticket is by petition.

A ticket nominated by petition is not entitled to go under a party ticket, as a regular party ticket.

A primary election must be held under the auspices of some party. Under the law there cannot be a nonpartisan primary. The method provided for placing a person on the ticket without regard to party is by petition.

The requirements of Section 6 (89 O. L. 434) that certified nominations of candidates for public offices must be made by "convention, caucus, meeting of qualified electors, primary election held by such electors or central or executive committee, representing a political party, which at the next preceding election polled at least one per cent. of the entire vote cast in the state" is not repugnant to any provision of the constitution.

State Ex rel. Richard Plimmer v. Poston et al., 58  
O. S. 620.

A number of citizens cannot caucus for the purpose of nominating a ticket. A ticket may be nominated by caucus only by an existing political party. A citizens' ticket must be nominated by petition.

A political party does not have the right to fill a vacancy on its ticket by petition.

A person who has been a candidate at the primary is not thereby prevented from circulating a petition to be an independent candidate, and persons who voted at the primary are not thereby prevented from signing the same. Sec. 4950 G. C.

A political party casting more than one per cent. of the total vote for state officers in the state is entitled to exercise rights under section 4992 in and with respect to any of the political subdivisions of the state regardless of the number of votes cast by it in such subdivisions. Its rights under section 4992 are to be determined by the votes cast in the state at large for state officers. Atty. Gen. 4-28-10.

Certificate of nomination.

SECTION 4993. Each certificate of nomination shall state such facts as are in this chapter required for its acceptance and be signed by the proper officers of such convention, caucus, meeting, primary election or committee, who shall add to their signatures their places of residence and post office addresses and make oath before an officer qualified to administer it that the facts stated in the certificate are true to the best of their knowledge and belief. A certificate of the oath shall be annexed to the certificate of nomination. (89 v. 434 § 6.)

NOTE:— Within the meaning of section 2966-18, Revised Statutes, the chairman and secretary of a nominating convention are "proper officers" to execute certificate of nominations made by such convention.

A person who acts as secretary of two rival conventions may be compelled by mandamus to execute certificates of nomination made by each convention, in order that rival candidates may present their claims for determination by the election board named in Section 2966-23, Revised Statutes.

Upon an application of this character the court will consider only questions relating to the relator's right to such certificate of nomination, leaving all questions involved in the validity of the claims of rival candidates to be the nominee to be determined by said election board.

State Ex. rel. Milner v. Jones, Secretary, 74 O. S. 418.

Political parties, being voluntary associations, the conventions of such parties are necessarily the sole judges of the elections, returns and qualifications of their members, and courts of equity can not restrain the members of such conventions or the members of the committees on credentials from arbitrarily seating certain delegates therein.

In re Contempt v. Gear, Jr., 6 N. P. 312.

Either political party may nominate and have placed on its ticket as candidates for offices, persons who have been nominated for the same office by another political party.

Gregg v. Rogers, 1 N. P. 117.

Certificate shall state committee to fill vacancies.

SECTION 4994. Such certificate of nomination shall also state the names and addresses of a committee authorized to represent such political party, and such committee may fill vacancies which occur in the list of nominations, unless it is otherwise specially ordered at the time of the selection of such committee and so certified. (89 v. 434 § 6.)

SECTION 4995. When no nominations were made originally for a particular office, it shall be unlawful for any committee appointed for the purpose of filling vacancies to name a candidate of another political party for such office or to so name a candidate nominated by petition. When the nomination of a candidate of one party is endorsed by another, it shall be done at the time and in the manner provided for original nominations. (98 v. 176 § 6a.)

Substitution of other party candidate by committee unlawful.

NOTE:— This section applies merely to the filling of vacancies by the controlling committee of a political party. A person nominated in compliance with law by a political party, may, by the circulation of petitions, become an independent candidate and have his name appear twice upon the ballot at the municipal election as a candidate for the same office. Atty. Gen. 8-23-09.

SECTION 4996. Nominations of candidates for any elective office in any township or in any municipality which at the last preceding federal census had a population of less than two thousand may, be made by petitions, signed in the aggregate for each candidate by not less than twenty-five qualified electors of such township or village. (103 v. 844.)

Nominations of candidates for offices in townships and municipalities having less than 2,000 population.

SECTION 4997. Nominations of candidates for the office of member of the board of education shall be made by nominating papers signed in the aggregate for each candidate by not less than twenty-five qualified electors of the school district, of either sex, in village districts and in city school districts by not less than two per cent of the electors voting at the next preceding general school election in such city school districts. (103 v. 279.)

How nominations made.

SECTION 4998. When nominations of candidates for member of the board of education have been made by nomination papers filed with the board of deputy state supervisors, as herein provided, such board of deputy state supervisors shall publish on two different days prior to the election a list of the names of such candidates in two newspapers of opposite politics in the school district, if there is such printed and published therein. If no newspaper is printed in such school district, the board shall post such list in at least five public places therein. (R. S. Sec. 3897a.)

Names of nominees for board published.

SECTION 4999. Nominations of candidates for other offices, may be made by petitions, signed for each candidate by qualified electors of the state or the district, or county for which such candidates, are nominated, not less in number than one for each one hundred persons who voted at the next preceding general election in the state, district or county. (103 v. 844.)

Nominations of candidates for other offices.

SECTION 5000. Signers of such nomination papers shall insert in them the names and addresses of such persons as they desire to the number of five as a committee who may fill vacancies caused by death or withdrawal. (97 v. 226 § 7.)

Signers to name committee to fill vacancies.

Signer pledged to vote for nominee.

SECTION 5001. Such nomination papers shall contain a provision to the effect that each signer thereto thereby pledges himself to support and vote for the candidate or candidates whose nominations are therein requested. Each elector signing a nomination paper shall add to his signature his place of residence and may subscribe to one nomination to each office to be filled and no more. (97 v. 226 § 7.)

Oath by one of the signers.

SECTION 5002. One of the signers to each such separate paper shall swear that the statements therein are true to the best of his knowledge and belief and the certificate of such oath shall be annexed. (97 v. 226 § 7.)

NOTE:—The requirement of Sec. 7 of the Act of April 8, 1898 (93 O. L. 93), that papers to secure the nomination of candidates for public offices "shall contain a provision to the effect that each signer thereto pledges himself to support and vote for the candidate or candidates whose nominations are therein requested," operating uniformly and impartially upon all classes of electors and interposing no unreasonable impediment to the exercise of the elective franchise, is valid.

State Ex rel. v. Poston, 59 O. S. 122.

Contents of certificates.

SECTION 5003. Besides containing the names of candidates, all certificates of nomination and nomination papers shall specify as to each candidate:

1. The office for which he is nominated;
2. The party or political principle which he represents, expressed in not more than three words;
3. His place of residence, with street and number thereon, if any.

In nominations by petition, the certificate may designate instead of a party or political principle any name or title which the signers may select. Candidates nominated by petition without distinctive appellations shall be certified as independent candidates. In case of electors of president and vice president of the United States, the names of the candidates for president and vice president shall be added to the party or political appellation. (89 v. 435 § 8.)

SEC. 5004. Certificates of nomination and nomination papers of candidates shall be filed as follows:

Where and when certificates of nomination and nomination papers shall be filed.

For state officers, presidential electors, United States Senator and congressman-at-large, with the state supervisor of elections in the manner following. All petitions signed in any county of the state shall be filed with the board of deputy state supervisors of elections of such county prior to the sixtieth day before the date of the election and shall remain open to public inspection in the office of such board for a period of five days immediately prior to the fifty-fifth day before such election, during which time objections may be filed thereto and the same heard by such board, which shall, on or before the fiftieth day before such election, transmit such petitions and objections, if any, to the state supervisor of elections together with a copy of their find-

ings on such objections, if any, and a certificate stating the number of bona fide electors of such county whose names appear attached thereto;

For offices to be filled by the electors of a district, or subdivision of a district, composed of two or more counties, with the chief deputy state supervisor of the county in the district, or subdivision, containing the greatest number of inhabitants, as ascertained by the last federal census, not less than sixty days previous to the day of election.

For county offices or offices to be filled by the electors of a district lying within a county, with the board of deputy state supervisors of the county, not less than sixty days previous to the date of election;

For township or municipal officers, justices of the peace, or members of the board of education, with the board of deputy state supervisors of the county, not less than sixty days previous to the date of election;

For municipal officers and for members of boards of education in municipalities, situated in two or more counties, with the board of deputy state supervisors of the county containing the majority population of such municipality, not less than sixty days previous to the day of election. (104 v. 10.)

NOTE:—The provisions of the law fixing the time within which nominations shall be filed is mandatory, and if not strictly complied with the names of persons afterwards certified to the board, should not be printed upon the ballot.

While this section should be observed by the board, it should not apply in a case where an effort was made to file within time, but owing to the absence of the board and clerk the presentation of the paper was delayed. In such case the papers should be dated as of the date on which such attempt to file was made.

SECTION 5005. When so filed, certificates of nomination and nomination papers shall be preserved and be open, under proper regulations, to public inspection. If in apparent conformity with the provisions of this chapter, they shall be deemed to be valid unless objection thereto is duly made in writing within five days after the filing thereof. (97 v. 227 § 10.)

When certificates and nomination papers deemed valid.

NOTE:—Where two certificates of nominations for county offices, both claiming to be the regular nominations of the same political party, are filed, and written objections are duly filed to one of such certificates and none to the other, a controversy is thereby raised as to the validity of the latter certificate and as to it the other certificate and the written objections thereto operate as written objections within the meaning of Section 5005; and the court of common pleas is without authority to restrain the deputy state supervisors of the county from considering such certificates and the controversy arising thereon and from certifying to the state supervisors of elections their failure to arrive at a decision thereon; and such court is without authority to require the deputy state supervisors, by mandamus or otherwise, to cause the names appearing in the certificate to which specific objections were not filed to be printed on the official ballot.

State Ex rel. Martin v. Thompson, 71 O. S. 76.

Consideration  
of objections  
and other  
questions to  
nominations.

SEC. 5006. Such objections or other questions, arising in the course of the nomination of candidates, shall be considered as follows:

For state officers, United States senator, congressman-at-large and presidential electors by the state supervisor of elections, and his decision shall be final;

For district offices or offices in a subdivision of a district, by the chief deputies and clerks of the boards of deputy state supervisors of the several counties comprising the district or subdivision, and their decision shall be final;

For county offices and offices of a district lying within a county, by the board of deputy state supervisors of the county and its decision shall be final;

For township or municipal offices, justices of the peace, or members of the board of education, by the board of deputy state supervisors of the county, and its decision shall be final;

In municipalities situated in two or more counties, such objections or other questions may be submitted by the board of deputy state supervisors of the county where filed, directly to the state supervisor, and his decision shall be final. (104 v. 10.)

The deputy state supervisors of elections have general authority to pass upon the validity of nominating papers.

State Ex rel. Brubaker, 17 O. C. C. 542.

NOTE:—The deputy supervisors of election of the county have the power to decide questions of substance, as well as form. Questions that arise in the "course of the nomination" of candidates, including those which arose before, as well as after, the certificates of nomination are made by the proper persons. Their decision of such questions is final.

Gregg v. Rogers, 1 N P. 117.

Where it appears that such certificate has been filed in ample time in which to advertise for bids and print the ballots and no objection is made otherwise, except as to the precise time in which it was done and that the non-observance in this regard could not affect the result of the election, its fairness or honesty, such certificate so filed will be deemed to be filed within time notwithstanding the requirement of the statute is mandatory in form.

State Ex rel. Fulton v. Deputy State Supervisors, 17 C. C. 397.

Section 5006 requires that objections or other questions arising in the course of nominations for candidates for district offices, "shall be considered by the chief deputy state supervisors and clerks of said election boards of the several counties comprising the district"; but such chief deputies are not thereby constituted a board with continuing functions, nor a board in any sense. Randall v. State, 64 O. S. 57, approved and followed.

State Ex rel. Hildebrandt v. Stewart, Chief Deputy, 71 O. S. 55.

When such chief deputy state supervisors and clerks have been called together to consider objections to and controversies concerning rival nominations and they have considered the same and rendered their decisions thereon and adjourned *sine die*, their functions as to such objections and controversies are at an end, and such decision is final in the sense that it is so far conclusive as to those objections and controversies that the same cannot be again

considered by the chief deputy state supervisors and clerks nor by those succeeding them in office.

State Ex rel. Hildebrandt v. Stewart, Chief Deputy,  
71 O. S. 55.

A person who acts as secretary of two rival conventions may be compelled by mandamus to execute certificates of nomination made by each convention, in order that rival candidates may present their claims for determination by the election board named in Section 5006.

See State Ex rel. Milner v. Jones, Secretary, 74 O. S. 418.

Upon submission of objections to certificates of nomination, by board of deputy state supervisors to state supervisor of elections, his decision thereon is final, and the board of deputy state supervisors refusing to comply therewith may be compelled to do so by mandamus. And an answer stating that they have been enjoined by the court of common pleas or a judge thereof, states no valid excuse for refusing to comply with the decision of the state supervisor. In such case the court of common pleas has no jurisdiction of the subject matter and its order of injunction is void.

Chapman v. Miller, et al., 52 O. S. 166.

The decision of the secretary of state, acting as state supervisor of elections, upon written objections to certificates of nomination and nomination papers or upon other questions arising in the course of the nomination of candidates, as provided in Sections 5005, 5006 and 5007 of the General Code, is final.

State Ex. rel Buel v. Joyce, et al., 87 O. S. 126.

SECTION 5007. The votes of at least three deputy state supervisors for the county or a majority of the chief deputies and clerks of the district or subdivision of the district shall be necessary to a decision. In all cases under this title in the event of a disagreement, or, if no decision can be arrived at, the matter in controversy shall be submitted to the state supervisor of elections, who shall summarily decide the question so submitted to him, and his decision shall be final. (103 v. 845.)

Majority  
necessary.

Questions may  
be submitted  
to the state  
supervisor in  
cases of  
disagreement.

NOTE:—The decision of the state supervisor of elections as to matters in controversy submitted to him by the deputy state supervisors, is final. It is the duty of said deputy state supervisors to obey such decision of the state supervisor of elections, and it is error for a court, by mandamus or otherwise, to order such deputy state supervisors to perform and act contrary to such decision of the state supervisor of elections.

Randall et al. v. State ex rel. Hunter, 64 O. S. 57.

When nominations of candidates for county offices have been made by any convention or primary election of a political party of a county under this section, and such nominations have been duly certified to the board of deputy state supervisors of elections of such county, and objections thereto have been filed in writing within five days after such nominations have been filed, such deputy state supervisors have authority under section 5006 G. C. to consider and determine all such objections and questions so arising, and that their decision in such case is final.

The state supervisor of elections may not determine the validity of nominations for county and local officers unless the board of deputy state supervisors fails to agree. Atty. Gen. 8-18-1908.

Notice of objection must be given.

SECTION 5008. When any such objection is so made, or any question so arises, notice thereof shall forthwith be mailed to the candidates affected thereby and to any party committee especially interested. (97 v. 227 § 10.)

Certified party name may be rejected, when.

SECTION 5009. In the decision of any question as to the proper political or party designation of candidates, the proper officers herein named may distinguish between candidates nominated by primary and those nominated by petitions. A party or political designation certified by petitioners in nominating petitions at any election may be rejected if, from similarity to the name of any existing political party, such officers deem it likely to mislead or confuse voters. (103 v. 845.)

How vacancy on ticket filled, or defect in certificate corrected.

SECTION 5010. If a person nominated as herein provided die, withdraw, or decline the nomination, or if a certificate of nomination is insufficient or imperfect, the vacancy thus occasioned, may be filled or the defect corrected in the manner required for original nominations. Such nomination to fill a vacancy, or corrected certificate must be certified to the secretary of state at least thirty days or to the board of deputy state supervisors at least twenty-five days previous to the day of election. If, when the original nomination was certified, there was certified a committee authorized to represent the party, as herein provided, it may fill such vacancy. (102 v. 417.)

After the secretary of state has sent the form of the ballot to the deputy state supervisors it is too late to omit the name of a withdrawing candidate, there being no nomination to fill the vacancy.  
State Ex rel. Fitzsimmons v. Taylor, 55 O. S. 385.

Certificate in case of filling vacancy.

SECTION 5011. When a committee so authorized fills any such vacancy, the chairman and secretary thereof shall thereupon make and file with the proper officer a certificate, setting forth the cause of the vacancy, the name of a person nominated, the office for which nominated, the name of the person for whom the new nominee is to be substituted and such other information as is required to be given in an original certificate of nomination. The certificates so made shall be executed, acknowledged and sworn to in the manner prescribed for the original certificate of nomination, and, upon being filed with the secretary of state at least thirty days, or with the board of deputy state supervisors at least twenty-five days, before the day of election, shall have the same force and effect as an original certificate of nomination. (102 v. 417.)

Vacancy caused by death of candidate after ballots printed.

SECTION 5012. A vacancy caused by the death of a candidate which occurs after the printing of the ballots may be filled by filing the proper certificate with the secretary of state at least ten days, and with the deputy state supervisors at least five days, before the day of election. The name, office, and party of the candidate so nominated shall be printed on adhesive slips or pasters by the board of deputy state supervisors, and shall be delivered to the

Adhesive slips or pasters.

judges of election in each precinct before the opening of the polls and by them pasted in the proper place on the ballot before it is handed the elector. (103 v. 845.)

NOTE:—Where a nomination has been duly certified to the board with whom it should properly be filed, and the candidate so nominated fails to withdraw or decline the nomination prior to the time when the nomination is required by law to be certified to the other counties, the name of the candidate cannot be stricken from the ballot. In contemplation of law the ballot is printed and there is no way of taking the name off the ticket.

State Ex rel. v. Taylor, 55 O. S. 585.

Pasters can only be used in cases where nominations have been originally made and a vacancy occurs upon the ticket after the ballot has been printed.

SECTION 5013. The power to fill vacancies on a party ticket shall be vested in the central committee of such party or in the case of a vacancy occurring in a list of candidates nominated by petition in the committee named in such petition. (103 v. 845.)

Vacancies shall be filled by central committee.

SECTION 5014. If the certificate of nomination of any state convention requests that the figure or device selected by such convention shall be used to designate the candidates of such party on the ballots for all elections throughout the state, such figure or device shall be used until changed by request of a subsequent state convention of the same party. Such device may be the figure of a star, an eagle, a rooster, a flower, a plow or some other appropriate symbol. The coat of arms or seal of the state or of the United States, the national flag or any other emblem common to the people at large shall not be used as such device. (89 v. 437 § 12.)

Device to designate party candidates.

The state supervisor of elections is not required by Section 12 of the Australian Ballot Law, Bates R. S. 2966-25, to cause to be printed on the ballots to be used at an election, a device selected and certified by a state convention which did not represent a political party that at the next preceding election polled at least one per cent. of the entire vote cast for the state; nor a device certified in nomination papers for a ticket nominated by that method.

State Ex rel. Lewis v. Kinney, Secretary, 57 O. S. 221.

SECTION 5015. Immediately after the expiration of the time within which certificates of nomination and nominating petitions may be filed and within which objections thereto may be made, as provided in the preceding sections, they shall be certified as follows:

Transmission of certified copies of certificates.

The state supervisor of election shall certify the nominations so filed with him, together with a form of official ballot therefor, to the several boards of deputy state supervisors of the counties of the state.

The chief deputy state supervisor of the district or subdivision with whom the certificates of district or subdivision nominations have been filed shall immediately certify such nominations to the boards of deputy state

supervisors in each of the other counties in such district or subdivision.

The board of deputy state supervisors of the county containing the majority population of a municipality situated in two or more counties, shall immediately certify to the boards of deputy state supervisors of the other county or counties, copies of the certificates of nominations and nomination papers of such municipal officers or members of the board of education that have been filed with such board. (103 v. 420.)

## CHAPTER 8. BALLOTS AND SUPPLIES.

### SECTION

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5017. Contents of official ballot; arrangement of tickets; names of candidates for president and vice president.
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### SECTION

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SECTION 5016. Except as in this chapter provided, the names of all candidates to be voted for on the first Tuesday after the first Monday in November shall be placed upon the same ballot. (99 v. 399 § 3.)

Names of candidates shall be on same ballot.

Sec. 5017. Every ballot intended for the use of electors, printed in accordance with the provisions of this chapter, shall contain the names of all the candidates whose nominations for any offices specified in the ballot have been duly made and not withdrawn in accordance herewith, arranged in tickets or lists under the respective party or political or other designation certified, at the elections when presidential electors are to be voted for, the secretary of state shall place the names of the candidates for president and vice president on the proper ticket, immediately following the name of the party, and immediately preceding the names of the presidential electors. (106 v. 346.)

Contents of ballot; arrangement of tickets; president and vice-president.

SECTION 5018. In general the arrangement of the ballot shall conform as nearly as practicable to the plan hereinafter given. The tickets of the various political parties shall be printed in parallel columns headed by the chosen device upon a shaded background, and the party names in

Arrangement of tickets on ballot.

such order as the secretary of state directs, precedence being given to the political party which held the highest number of votes for governor at the next preceding Novemembr election, and so on. The tickets, or lists, of candidates nominated by nomination papers, with their party names or designations, shall be printed at the right of and parallel with the tickets of political parties in such order as the secretary of state directs, precedence being given to the order herein prescribed for party tickets. No ticket or list of candidates containing more candidates for any office than are to be elected shall be printed under the name of any party. (104 v. 11.)

It is the imperative duty of the secretary of state, as state supervisor of elections, to send to the deputy supervisors the form of ballot to be used at an approaching election immediately upon the expiration of the time allowed for correcting the certificates of nomination.

The secretary having rightly performed that duty properly refused to instruct the deputy supervisors to omit from the ticket the name of a candidate who subsequently withdrew there being no nomination to fill the vacancy.

State Ex rel. Fitzsimmons v. Taylor, Secretary, 55 O. S. 385.

When names of several persons are grouped as candidates for same office.

SECTION 5018-1. Where the names of several persons are grouped together upon the ballots as candidates for the same office, the ballot shall contain, immediately above the names of such candidates the words "Vote for not more than . . . . . ." (filling the blank space with the number of persons who may lawfully be elected to such office). (103 v. 27.)

How constitutional amendments shall be submitted.

SECTION 5019. When an amendment to the constitution is to be submitted to the electors for their approval or rejection, such amendment shall be so submitted on a separate ballot at the top of which shall be printed the words "Proposed Amendment to the Constitution," or, if more than one such amendment is submitted at the same election, such heading shall be "Proposed Amendments to the Constitution." Each amendment shall be stated thereon in language sufficient to clearly designate it, which statement shall be printed in a space defined by ruled lines with two squares to the left thereof, the upper of which shall contain the word "Yes," and the lower the word "No." There shall be two similar blank squares, one on the left of that containing the word "Yes," and one to the left of that containing the word "No." Persons desiring to vote in favor of any such amendment shall do so by making a cross mark in the blank square to the left of the word "Yes," and those desiring to vote against the same shall do so by making a cross mark in the blank square to the left of the word "No." More than one such amendment may be submitted on the same ballot. The provisions of this title, so far as practicable, shall apply to the marking

of ballots and the counting of votes upon any constitutional amendments so submitted. All such ballots shall be deposited in a separate ballot box. (103 v. 554.)

If the majority of the electors voting on the same shall adopt such amendments the same shall become a part of the constitution. (Constitution, article 16, section 1.)

SECTION 5020. When the approval of a question other than a constitutional amendment, is to be submitted to a vote, such question shall be printed on a separate ballot and deposited in a separate ballot box, to be presided over by the same judges and clerks of election. (97 v. 231 § 18.)

When other question is submitted.

SECTION 5021. The ballot shall be so printed as to give each elector a clear opportunity to designate by a cross mark in a large blank circular space, three-quarters of an inch in diameter, below the device and above the name of the party at the head of the ticket or list of candidates his choice of a party ticket and desire to vote for each and every candidate thereon, and by a cross mark in a blank enclosed space on the left and before the name of each candidate his choice of particular candidates. Provided that on the ticket for presidential electors blank enclosed spaces shall not be provided on the left and before the names of the presidential electors. A cross mark in the large blank circular space above the name of the party at the head of said ticket shall constitute a vote and be counted as such for each of the presidential electors thereon. (103 v. 22.)

Provisions relating to printed form of ballot.

Form of ticket for presidential electors.

SECTION 5022. On the back of the ballot shall be printed "official ballot," the date of the election and facsimile of the signatures of the officers who have caused the ballots to be printed; provided, that all ballots containing names of candidates for municipal, township, board of education, and assessor or assessors of real property offices, shall have printed on the back, "official municipal ballot," "official township ballot," "official board of education ballot," "official assessor of real property ballot," or "official assessors of real property ballot," or by such other name as may properly describe the ballot, as the same may be, followed by the date of the election and facsimile of the signatures of the officers who have caused the ballots to be printed. (101 v. 34.)

Indorsements specified.

SECTION 5023. The ballots shall be printed on the same leaf with a double stub and separated therefrom by a perforated line and shall be bound with the stub attached thereto in books or blocks, one for each voting precinct, which book or block shall contain at least twenty-five per cent. more ballots than there were votes cast at such precinct at the preceding general election. Upon the covers of such books or blocks shall be printed the designation of the precinct for which the ballots have been prepared. (101 v. 228.)

Ballots.

Main and secondary stubs.

SECTION 5024. The main stub shall be printed as follows: Consecutive number . . . . ., (after these words the consecutive number shall be printed, beginning with one and increasing in regular numerical order); the deputy state supervisors may direct that such consecutive numbers shall not be printed but shall be written by the ballot officer before delivering the ballot to the elector.

Name of voter . . . . . (After these words, the clerk shall write the voter's name.)

Residence . . . . . (After this word the clerk in cities where registration is required shall write the voter's residence.)

The secondary stub shall be printed as follows:

Name of voter or registered number . . . . . (After these words, in precincts where the registration law is in force, the clerk shall write the registered number of the voter, and in other precincts, he shall write the voter's name.) (97 v. 231 § 18.)

General provisions relative to printing ballots.

SECTION 5025. All ballots shall be printed on the best quality, number two, book paper, in black ink, and, with the exception of the heading, which shall be in display, in bevier type, the name or designation of the office in lower case, and the name of the candidate therefore in capital letters, with a space of at least one-fifth of an inch following each name. The name of each candidate shall be printed in a space defined by ruled lines, and with a blank square on its left, enclosed by heavy, dark lines. If upon a ticket there is no candidate or candidates for a designated office, a blank space, equal to the space that would be occupied by such name or names if they were printed thereon with the blank spaces herein provided for, shall be left. (97 v. 231 § 18.)

Device and circle at head of ticket.

SECTION 5026. The heading of each party ticket, including the name of the party, the device above, and the large circle between the device and such name, shall be separated from the rest of the ticket by a heavy line, and the circle above the name of the party in which the voter is to place the cross mark, if he desires to vote the straight ticket, shall be defined by heavier lines than the lines defining the blank spaces before the names of candidates, and such circle shall be surrounded by the following words, printed in heavy face nonpareil type: "For a straight ticket mark within this circle." (97 v. 231 § 18.)

Separation of party tickets by borders.

SECTION 5027. Each party ticket shall be separated from other party tickets and bordered on each side by a heavy border or a broad solid line at least one-eighth of an inch wide, and the edges of the ballot on each side trimmed off up to the border or solid line described.



Separate ballots for township officers provided, when.

SECTION 5028. The names of candidates for municipal offices and the names of candidates for township offices shall be printed upon separate ballots, unless the corporate limits of the municipalities are identical with those of a township. Separate ballots shall be provided in all townships and in municipalities having a population of less than two thousand in which no primary is had for making nominations, which ballots so intended for the use of voters shall be so arranged and printed that the names of all candidates, whose nominations for any offices specified in the ballot have been duly made, will be grouped under the designation or title of the office for which nominated, in alphabetical order according to surnames. A single blank line or space shall be left at the end of the list of candidates for each different office. (103 v. 520.)

Ballot for candidates grouped for same office.

Separate ballots for each precinct.

SECTION 5029. In election precincts composed of a township or a part thereof, or a municipality or a part thereof, there shall be provided for all elections separate ballots for each precinct, so as to enable electors residing in such precinct to cast their votes for the proper candidates in such precinct; and there shall be provided separate ballots for each district portion of such precinct which shall contain the names of the candidates for members of the board of education for whom electors residing in such district are entitled to vote. (98 v. 234 § 15.)

Municipalities containing less than fifty voters.

SECTION 5030. When a municipality contains less than fifty voters in the same township, the deputy state supervisors may provide a separate ballot and ballot box for such voters at the regular polling place in an adjoining precinct of the same county. (98 v. 234 § 15.)

Territory annexed for school purposes.

SECTION 5031. When territory annexed to a village for school purposes is included within such village precinct, separate ballots, ballot box, poll books and tally sheets shall be provided for such voters in municipal elections, presided over by the judges and clerks of elections of such precinct (98 v. 234 § 15.)

Ballots for school board.

SECTION 5032. The names of candidates for members of the board of education of a school district, however nominated, shall be placed on one independent and separate ballot without any designation whatever, except for member of board of education and the number of members to be elected. (98 v. 116 § 1.)

How ballot for school board printed.

SECTION 5033. The ballots for members of the board of education shall be prepared and printed as follows: The whole number of ballots to be printed for the school district shall be divided by the number of candidates for member of board of education of the district, and the quotient so obtained shall be the number of ballots in each series of ballots to be printed. The names of candidates shall be arranged in alphabetical order and the first series of ballots printed. Then the first name shall be placed last and the next series printed, and so shall the process be repeated

until each name shall have been first. These ballots shall then be combined in tablets with no two of the same order of names together, except when there is but one candidate. (98 v. 116 § 2.)

SECTION 5034. In city school districts, the ballots for each subdistrict shall contain the names of the candidates for member of the board of education from such subdistrict and also the names of the candidates to be elected at large. (97 v. 354 § 1.)

School districts in cities.

SECTION 5035. The names of candidates for assessor of real property, however nominated, shall be placed on one independent and separate ballot without any designation whatever, except for assessor of real property and the number of assessors to be elected. The ballots for the election of such assessors shall be prepared and printed in the manner herein provided for the election of members of the board of education. (100 v. 81 § 1.)

Ballots for assessors of real property.

SECTION 5036. After the letting of the contract for the printing of the ballots, as hereinafter provided, the proper officer or board shall secure from the printer and exhibit to the chairman of the local executive committee of each party represented on the ballot, for inspection and the correction of any errors appearing thereon, a printed proof of the ballots to be printed for use at the election. (98 v. 234 § 15.)

Submission of proof of ballot.

SECTION 5037. The person to whom the contract for printing ballots is let shall, in the presence of the deputy state supervisors, seal up securely in packages, one for each precinct in the county or municipality, as the case may be, the designated number of ballots to be printed for such precinct and endorse thereon the number of ballots so printed and sealed up and deliver them to the deputy state supervisors at such times as they direct. (98 v. 234 § 15.)

Sealing and delivery of ballots.

SECTION 5038. Not less than three days before an election, the board of deputy state supervisors shall summon the presiding judge of elections in each precinct in such county to appear forthwith and receive the necessary blanks, poll books, tally sheets, certificates, cards of instruction and ballots for such precinct, and shall deliver to him the sealed packages of ballots, blanks, poll books and other required papers, all of which such judge shall safely deliver and have on hand at the polling place in his precinct before the time for the opening of the polls therein. If the presiding judge so summoned does not appear, the board shall send the ballots, books and other required papers to the election officers of the precinct, so as to be received by them in time for the election. (97 v. 229 § 16.)

Delivery of ballots and supplies.

SECTION 5039. In registration cities, when the presiding judge or chairman is chosen at the meeting of the registrars and judges of election on the evening preceding a November election, as provided by law or on the evening

Delivery of ballots in registration cities.

preceding a special election, such judge, immediately after such meeting, shall call at the office of the board of deputy state supervisors for such packages and the board shall deliver the poll books, tally sheets, cards of instruction and other supplies to him. In a registration city having a population of three hundred thousand or more, the board, by resolution, may provide for the delivery of ballots through the agency of the police force of such city. (97 v. 229 § 16.)

Replacing of  
supplies lost  
or destroyed.

SECTION 5040. If, by accident or casualty, the ballots or other required papers delivered to a judge of election or other messenger shall be lost or destroyed, the person charged with the custody thereof shall report the loss at once to the board of deputy state supervisors from which they were obtained, and make affidavit of the circumstances of the loss, whereupon the board shall at once resupply such person. If such person fails or refuses to report and make proof of the loss, any qualified elector may do so, and thereupon a new supply shall be sent by special messenger, as provided in other cases. (97 v. 230 § 17.)

Opening of  
packages;  
cards of  
instruction.

SECTION 5041. At the opening of the polls in each precinct the seals of such packages shall be publicly broken, and the packages shall be opened by the presiding officer. The cards of instruction shall be immediately placed in each voting shelf or compartment hereinafter provided for the marking of ballots, and in such other places as the election officers may select. (97 v. 230 § 17.)

Extra  
ballots.

SECTION 5042. If no ballots have been delivered at a polling place before the opening of the polls, or if during the time the polls remain open extra ballots shall be required, the board of deputy state supervisors, upon a requisition in writing, signed by a majority of the election judges of such precinct, wherein the reason for demanding such ballots shall be given, shall supply them as speedily as possible, and, if necessary, extra ballots may be printed for this purpose. Extra ballots so printed shall conform as nearly as possible to the original ballots and the printing and care of them shall be under the same provisions and penalties as the printing and care of other ballots. If neither the official ballots nor extra ballots so prepared are ready for distribution at any polling place, or if the supply of ballots is exhausted before the polls are closed, unofficial ballots may be used, so that no elector for lack of a ballot shall be deprived of his franchise. (97 v. 230 § 17.)

Compensation  
of judge or  
chairman  
called to de-  
liver ballots  
and supplies.

SECTION 5043. The judge of elections called by the deputy state supervisors to receive and deliver ballots, poll books, tally sheets and other required papers, shall receive two dollars for such service, and, in addition thereto, mileage at the rate of five cents per mile to and from the county seat, if he lives one mile or more therefrom.

The judge of elections carrying the returns to the deputy state supervisors, and the judge carrying the returns

to the county or township clerk, or clerk or auditor of the municipality, shall receive like compensation.

In cities where registration is required, the chairman selected at the meeting for organization shall receive one dollar for calling for the sealed package of ballots. (97 v. 237 § 36.)

SECTION 5044. The board of deputy state supervisors shall provide a sufficient number of voting shelves for each polling place at which electors may conveniently mark their ballots, so that in the marking thereof they shall be protected from the observation of others by cloth screens, or other device, extending from the top of the booth to a level with or below the voting shelf. The number of such voting shelves shall not be less than one for every seventy-five electors qualified to vote at such polling place. Each voting shelf shall be provided with proper supplies and conveniences for marking the ballot. (97 v. 234 § 19.)

Voting shelf.

SECTION 5054. A guard rail shall be so constructed and placed that only such persons as are inside such rail can approach within six feet of the ballot boxes or of the voting shelf. The arrangement shall be such that neither the ballot boxes nor the voting booths shall be hidden from view of those outside the guard rails. No person other than the judges of elections and such officers as are provided for by law, and electors admitted as hereinafter provided, shall be permitted within the guard rail, except by authority of the election officers for the purpose of keeping order and enforcing the law. (97 v. 234 § 19.)

Who permitted within guard rail.

SECTION 5046. After each election, the judges of elections of each precinct shall see that the booths, guard rails and other equipment are returned to the clerk of the township, or clerk or auditor of the corporation, in which the precinct is situated, for safekeeping. Such clerk or auditor shall have booths and equipments on hand and in place at the polling place in each precinct, before the time for opening the polls on election day, and for this service the board of deputy state supervisors may allow the necessary expenses incurred. In registration cities, this duty shall devolve on the board of deputy state supervisors. (97 v. 234 § 19.)

Placing equipment for election.

SECTION 5047. The secretary of state shall prepare and furnish boards of deputy state supervisors of the several counties, for their guidance, forms of all the blanks, cards of instruction, poll books and tally sheets, certificates of nomination and designs, required herein for the conduct of elections. (90 v. 268 § 2.)

Secretary of state shall furnish forms for guidance of boards.

SECTION 5048. The board of deputy state supervisors of each county shall furnish at the expense of the county and at least five days before the day of election, the necessary poll books and tally sheets required in each voting precinct in the county for presidential, congressional, state, county, township, municipal or other elections. (R. S. Sec. 1252.)

Poll books and tally sheets.

Poll books and tally sheets for school elections.

SECTION 5049. There shall be separate poll books and tally sheets for all elections for school purposes and the ballots of the electors at such election shall be deposited in a separate ballot box. (97 v. 354 § 1.)

Contract for printed ballots and other supplies.

SECTION 5050. The printing provided for in this chapter, except poll books and tally sheets, shall be let by the board of deputy state supervisors to the lowest responsible bidder in the county, upon ten days' notice published not more than three times in two leading newspapers of opposite politics published in such county. In case of special elections, the board may give notice by mail, addressed to all the printing offices within the county instead of publishing such notice. (98 v. 234 § 15.)

NOTE:—It is not an abuse of discretion in the board of deputy state supervisors of elections to give the contract for the printing of the ballots to a higher bidder where there is danger that the lower bidder may by a strike of his employes be prevented from furnishing the ballots at the proper time, to be used at the election.

The presumption is that public officers — in this case the deputy state supervisors of elections — have exercised a sound discretion, and the burden of proof is on plaintiff to show, with that clearness which is always necessary to move a court of equity to interfere, a state of facts which would constitute an abuse of discretion.

Pugh Printing Co. v. Deputy State Supervisors, 22 C. C. 584.

“The Board of Elections cannot be interfered with in matters of detail pertaining to the printing of the official ballots.”

State Ex rei. v. Ehrman, 2 O. D. 398; also see 40 O. D. 505.

Bond of bidder for printing.

SECTION 5051. Each bill for such printing must be accompanied by a bond with at least two sureties, satisfactory to the board of deputy state supervisors, in a sum double the amount of the bid, conditioned for the faithful performance of the contract for such printing as may be awarded him, and for the payment as liquidated damages by such bidder to such board of any excess of cost over the bid or bids which the board may be obliged to pay for such work by reason of the failure of the bidder to complete his contract. No bid unaccompanied by such bond shall be entertained by the board. (97 v. 116 § 15a.)

Election expenses, how paid.

SECTION 5052. All expenses of printing and distributing ballots, cards of explanation to officers of the election and voters, blanks, and other proper and necessary expenses of any general or special election, including compensation of precinct election officers, shall be paid from the county treasury, as other county expenses. (99 v. 84 § 14.)

Apportionment of expenses.

SECTION 5053. In November elections held in odd numbered years, such compensation and expenses shall be a charge against the township, city, village or political division in which such election was held, and the amount so paid by the county shall be retained by the county auditor from funds due such township, city, village or political division, at the time of making the semi-annual distribution of

taxes. The amount of such expenses shall be ascertained and apportioned by the deputy state supervisors to the several political divisions and certified to the county auditor. In municipalities situated in two or more counties, the proportion of expenses charged to each of such counties shall be ascertained and apportioned by the clerk or auditor of the municipality and certified by him to the several county auditors. (99 v. 84 § 14.)

SECTION 5054. County commissioners, township trustees, councils, boards of education or other authorities, authorized to levy taxes, shall make the necessary levy to meet such expenses, which levy may be in addition to all other levies authorized or required by law. (99 v. 84 § 14.)

Tax levy.

### ELECTION OF JUDGES.

SECTION 1467. A chief justice shall be elected every six years, beginning in 1914, to hold his office for a term of six years commencing on the first day of January next after his election. Until a chief justice is so elected and qualified, the governor shall appoint a chief justice. Vacancies occurring in the office of chief justice of the supreme court, shall be filled in the manner prescribed for the filling of vacancies in the office of judge of the supreme court. (103 v. 408.)

Chief justice, election, term.

SECTION 1468. Two judges shall be chosen in each even numbered year. Each judge shall hold his office for a term of six years, commencing on the first day of January next after his election. (103 v. 408.)

Election of judges.

SECTION 1514. The court of appeals shall consist of three judges in each district, one of whom shall be chosen every two years, and shall hold his office for six years, beginning on the ninth day of February next after his election. In addition to the original jurisdiction conferred upon it by section six of article four of the constitution, the court on good cause shown, may issue writs of supersedeas in any case, and all other writs not specially provided for, nor prohibited by statute, which may be necessary to enforce the due administration of justice. (103 v. 411.)

The court of appeals; term of judges; jurisdiction.

SECTION 5054-1. The election of a chief justice of the supreme court, judges of the supreme court, judges of the court of appeals, judges of the courts of common pleas, judges of the probate courts, justices of the peace, and judges of all other courts which are or may be established by law, shall be governed and controlled by the general election laws of this state except as is otherwise provided by this act. (103 v. 421.)

Election of judges.

SECTION 5054-2. The names of all candidates for election to any of the judicial offices specified in Section 1 of this act, whose nominations have been duly made, and not withdrawn, shall be placed upon a separate and independent ballot, entitled, "Judicial Ticket," without any designation whatever, except the office or offices to

Judicial ticket.

which said candidates are to be elected, and the number of candidates required to be elected to each such office, and such directions as will aid the elector as "vote for one," "vote for two," and the like and such certification of the election officers upon the back of the ballot as is prescribed by law. There shall be separate poll books and tally sheets used for the election of all such judicial officers, and the ballots of the electors shall be deposited in a separate ballot box. (102 v. 6.)

Form of official ballot certified to deputy state supervisors and inspectors.

SECTION 5054-3. The secretary of state, at the time he certifies to the boards of deputy state supervisors and inspectors of elections a form of official ballots for the general election, shall also certify to the several deputy state supervisors and inspectors of elections a form of official ballot for such judicial ticket, and it shall then be the duty of the several deputy state supervisors and inspectors of elections to proceed with the printing of the poll books, tally sheets, and ballots for such judicial election, and to perform all and singular the duties prescribed by law for the conduct of the general elections, in so far as the same are applicable. (102 v. 6.)

Number of ballots, how divided.

SECTION 5054-4. The ballots shall be printed and prepared as follows: The whole number of ballots to be printed for the election of persons to fill each of said offices respectively shall be divided by the number of candidates for each of said offices respectively, and the quotient so obtained shall be the number of ballots in each series of ballots to be printed as follows: The names of candidates shall be arranged in alphabetical order and the first series of ballots printed; then the first name shall be placed last and the next series printed, and so shall the process be repeated until each name shall have been first. These ballots shall then be combined in tablets with no two of the same order of names together, except when there is but one candidate for any of said offices. The names of candidates for the same office but for different terms of service therein, shall be arranged in groups according to the length of their respective terms. Blank spaces shall be left at the end of the list of candidates for each office equal to the number to be elected thereto, in which the voter may insert the name of any person not printed on the ballot for whom he desires to vote for such office. The ballots shall be so printed as to give each elector a clear opportunity to designate by a cross mark in a blank enclosed space on the left and before the name of each candidate his choice of particular candidate. (102 v. 6.)

Arrangement of candidates.

Blank space.

Marking.

SECTION 5054-5. A cross shall be placed at the left of the name of each candidate for whom the elector desires to vote. The person having the largest number of votes for each office voted upon shall be decided elected to such office, and the next highest, and so on, until the num-

ber of candidates required to be elected shall have been selected from the number having the highest number of votes. (102 v. 7.)

Act to provide for the election of judicial officers by separate ballot is a valid exercise of legislative power and not repugnant to the constitution.

State Ex rel. Weinberger v. Miller, 87 O. S. 12

## CHAPTER 9.

### CASTING AND COUNTING OF VOTE.

SECTION	SECTION
5055. Where electors shall vote.	5080-1. Nomination of inspectors when question submitted; inspectors to the count in each precinct.
5056. Polls open from 5:30 a. m. to 5:30 p. m.	5081. Certificate and proclamation of vote cast.
5057. Judges shall open ballot boxes; examination.	5082. Opening of ballot box and counting of ballots.
5058. Appointment of party challengers.	5083. Counting of votes.
5059. Oath of challengers.	5084. When name printed on ticket fraudulently.
5060. Who may challenge voters.	5085. When two or more ballots are folded together.
5061. Challenge; oath; questions.	5086. When a ballot contains too many names.
5062. Vote rejected when person refuses to answer.	5087. Ballot may contain less names than authorized.
5063. Further oath if challenge not withdrawn.	5088. Tally sheet entries.
5064. Rejection of person who refuses to take oath or is not qualified.	5089. Proclamation of result and certified in triplicate; unofficial count certified to secretary of state on day following election.
5065. When clerk to enter on poll book the word "Sworn."	5090. Preserving and counting of disputed ballots.
5066. Entry of name and residence of voter upon stubs.	5090-1. Preservation of all ballots; when and how ballots shall be destroyed; opening in contested cases.
5067. Delivery of ballot to elector.	5090-1. Presidential elections.
5068. Provisions as to use of voting shelves.	5090-2. Order to strike from register names illegally registered; how obtained.
5069. General provisions relating to marking of ballot.	5090-3. Register or arrival and departure of guests; affidavit; penalty.
5070. Rules to be observed in marking ballot.	5090-4. Power of board to require report; penalty for neglect to furnish list.
5071. Substitution when no nomination made or nominee omitted.	5091. Period during which judges and clerks shall not separate or leave polling place.
5072. Folding of ballot.	5092. Election officers cannot be candidate except for committeeman or delegate.
5073. How ballot received and deposited.	
5074. How secondary stub disposed of.	
5075. When person is deemed to have voted.	
5076. Return of unvoted ballot.	
5077. Number of persons in booths and within guard rail.	
5078. When electors may receive assistance in marking ballots.	
5079. Unofficial ballots shall not be deposited in ballot box.	
5080. Party inspector may be designated and admitted to polling place.	

Where elector shall vote.

SECTION 5055. Each qualified elector shall vote at the polls of the precinct in which he has a legal residence, unless otherwise directed by special provision of law. (R. S. Sec. 2927.)

Polls open from 5:30 a. m. to 5:30 p. m.

SECTION 5056. The polls shall be open at five thirty o'clock forenoon and kept open up to, and closed at five thirty o'clock, central standard time, in the afternoon of the same day. (103 v. 21.)

NOTE: See also, Section 4925, General Code.

The legislature no doubt intended that, when the polls are opened, in accordance with the provisions of section 5 of the act of May 3, 1852, "to regulate the election of state and county officers," they should be kept open until the hour prescribed for finally closing the same; and good policy as well as the convenience of voters would seem to require that this legislative intent should be observed. But in this respect the statute is directory, and a departure from the strict observance of its provisions does not necessarily invalidate an election, where it appears that no fraud has been practiced and no substantial right violated.

Fry v. Booth, 19 O. S. 25.

Under the act of May 3, 1852, after the polls of an election have been once opened, they cannot be closed for any purpose until six o'clock in the afternoon (the time then fixed by law — Ed.) without rendering the election illegal and void.

State Ex rel. v. Ritt, 3 O. D. (Reprint) 475.

SECTION 5057. Immediately before proclamation is made of the opening of the polls, the judges of elections, or one of them, in the presence and under the direction of the others and in the presence of the persons there present, shall open the ballot boxes and turn them upside down so as to empty them of anything that may be in them, and offer to such persons as may desire it the privilege of examining them in the presence of the judges, and then lock them. The boxes shall not be again opened until the polls are closed and the counting of the ballots begins. (R. S. Sec. 2937.)

Judges shall open ballot boxes; examination.

SECTION 5058. Two challengers may be appointed by the precinct committeeman of each political party having candidates to be voted for at each election, who shall be admitted to the polling place for the purpose of challenging electors in such precinct where the voters are not registered, and they may keep tally of the electors voting. In special elections when no candidates are to be elected, the judges of election in each precinct shall, at least one day before the election, appoint and make public two known representatives of each side of the question to be submitted, as challengers. (97 v. 234 § 20.)

Appointment of party challengers.

Where a ticket or candidate has been nominated by independent nomination papers, such independent candidates have no right under authority of this section to the appointment of separate challengers and inspectors.

The provisions of this section, as to the appointment of challengers and inspectors of elections, are not mandatory but directory only, and failure to make such appointments is an irregularity which does not invalidate an election at which there was a comparatively full vote cast with no evidence of fraud or attempts to deceive; nor does the dereliction of deputy state supervisors of election, or of any of them, invalidate an election, where it does not appear that except for such dereliction there would have been a different result, *State Ex rel. Johnson et al. v. Village of McClure*, 5 O. N. P. (N. S.) 541.

SECTION 5059. Such challengers shall serve without compensation from the county, city, village or township, and shall take the following oath, to be administered by one of the judges of elections:

Oath of challengers.

“You do solemnly swear that you will support the constitution of the United States and of this state; that you will faithfully and impartially discharge the duties as official challenger, assigned by law; that you will not cause any delay to persons offering to vote further than is necessary to procure satisfactory information of their qualifications as electors, and that you will not disclose or communicate to any person how any elector has voted at such election. (97 v. 234 § 20.)

SECTION 5060. Any voter may be challenged by any challenger, judge or clerk of elections, and, if challenged, shall establish his right to vote, as provided by law. Any elector of the precinct may notify the judges of elections

Who may challenge voters.

in writing that he challenges the right of any person or persons to vote, giving the reason, and such person or persons shall be deemed challenged. (97 v. 234 § 20.)

Challenge;  
oath.

SECTION 5061. If a person offering to vote is challenged as unqualified one of the judges shall tender him the following oath: "You do swear or affirm that you will fully and truly answer all questions put to you, touching your place of residence and qualifications as to an elector at this election."

Questions.

First.—If the person is challenged as unqualified on the ground that he is not a citizen, the judges or one of them shall put the following questions:

1. Are you a citizen of the United States?
2. Are you a native or naturalized citizen?

If the person offering to vote claims to be a naturalized citizen of the United States, he shall, before the vote is received, produce for the inspection of the judges of election a certificate of the naturalization, and also under oath that he is the identical person named therein. The production of the certificate shall be dispensed with if the person offering to vote states under oath when and where he was naturalized, that he has had a certificate of his naturalization, and that, against his will, it is lost, destroyed or beyond his power to produce to the judges of elections or if he states under oath that by reason of the naturalization of his parents or one of them he has become a citizen of the United States, and when or where his parent or parents were naturalized, the certificate of naturalization need not be produced.

Second.—If the person is challenged as unqualified on the ground that he has not resided in this state for one year immediately preceding the election, the judges or one of them shall put the following questions:

1. Have you resided in this state for one year immediately preceding this election?
2. Have you been absent from this state within the year immediately preceding this election? If yes, then—
3. When you left this state, did you leave for a temporary purpose with the design of returning, or for the purpose of remaining away?
4. Did you, while absent, look upon and regard this state as your home?
5. Did you, while absent, vote in any other state?

Third.—If the person is challenged as unqualified on the ground that he is not a resident of the county or precinct where he offers to vote, the judges or one of them shall put the following questions:

1. Have you resided in this county for thirty days last past?
2. Have you resided in this precinct for twenty days last past?
3. When did you last come into this county?

4. When you came into this county, did you come for a temporary purpose merely, or for the purpose of making it your home?

5. Did you come into this county for the purpose of voting in this county?

6. Are you now an actual resident of this precinct?

7. Have you a family? If so, where does your family reside?

Fourth.—If the person is challenged as unqualified on the ground that he is not twenty-one years of age, the judges or one of them shall put the following question:

Are you twenty-one years of age to the best of your knowledge and belief?

The judges of election or one of them shall put such other questions to the person challenged under respective heads herein designated, as may be necessary to test his qualifications as to an elector at the election. (106 v. 323.)

SECTION 5062. If a person challenged refuses to answer fully any question put to him, or is unable to answer the question on the registers as they were answered by the person under whose name he offers to vote, or is unable to sign his name, or if for any other reason a majority of the judges believe he is not entitled to vote, the judges shall reject his vote. (102 v. 185.)

Vote rejected when person refuses to answer.

SECTION 5063. If the challenge is not withdrawn after the person offering to vote has answered the questions put to him, one of the judges of election shall tender him the following oath:

Further oath if challenge not withdrawn.

“You do swear that you are a citizen of the United States, of the age of twenty-one years; that you have been an inhabitant of this state for one year next preceding this election; that you are now an actual resident of this precinct, and that you have not voted at this election.” (R. S. Sec. 2942.)

SECTION 5064. If a person refuses to take the oath so tendered, his vote shall be rejected. After such oath has been taken, a majority of the judges may refuse to permit such person to vote if they are satisfied from record evidence or the testimony produced before them that he is not a legal voter, otherwise the vote shall be accepted. The judges may administer the necessary oaths to witnesses brought before them to testify to the qualifications of the person offering to vote. (R. S. Sec. 2943.)

Rejection of person who refuses to take oath or is not qualified.

SECTION 5065. When the vote of a person is received after he has taken the oath herein prescribed, the clerks of election, shall write on the poll books at the end of such person's name, the word “Sworn.” (R. S. Sec. 2944.)

When clerk to enter on poll book the word “Sworn.”

SECTION 5066. Any person desiring to vote, and legally entitled to vote at such election, shall give his name, and, in precincts where registration is required by law, his residence, to the election officer holding the ballots, who

Entry of name and residence of voter upon stubs,

shall write them upon the main stub of the ticket in the blank space provided therefor. Such officer shall then mark upon the secondary stub the elector's registered number, in precincts where registration is so required, and in other precincts, the elector's full name. (89 v. 444 § 21.)

Delivery of  
ballot to  
elector.

SECTION 5067. One of the election officers shall then detach the ballot with the secondary stub attached, from the main stub, fold it, hand it to the elector, and the elector shall be allowed to enter the place enclosed by the guard rail. The officer shall give him one and only one of each and every ballot to be voted at the election. (102 v. 185.)

Provisions as  
to use of  
voting shelves.

SECTION 5068. On receipt of his ballot, the elector shall forthwith and without leaving the enclosed space, retire alone to one of the voting shelves, and without undue delay unfold and mark his ballot as hereinafter prescribed. No elector shall be allowed to occupy a voting shelf already occupied by another, or to occupy a voting shelf for more than five minutes in case all the shelves are in use and electors waiting to occupy them, or, except as herein provided, to speak to or to converse with anyone while within the guard rail. (89 v. 444 § 21.)

General pro-  
visions relat-  
ing to mark-  
ing of ballot.

SECTION 5069. All marks upon the ballot must be made by black lead pencil. If an elector soils or defaces a ballot so that it cannot be used, he may successively obtain others, one at a time, not exceeding in all three, upon returning each ballot so soiled or defaced, which shall be immediately destroyed. If an elector who has defaced three ballots satisfies the judges that they were defaced by accident or honest mistake and not for fraudulent purposes, the judges shall deliver him another ballot and help him mark it. (89 v. 444 § 21.)

Rules to be  
observed in  
marking  
ballot.

SECTION 5070. The elector shall observe the following rules in marking his ballot:

1. If the elector desires to vote a straight ticket, or in other words for each and every candidate of one party for whatever office nominated, he shall, either,

(a) Make a cross mark in the circular space below the device and above the name of the party at the head of the ticket; or

(b) Make a cross mark on the left of and opposite the name of each and every candidate of such party in the blank space provided therefor.

2. If the elector desires to vote a mixed ticket, or in other words for candidates of different parties, he shall, either,

(a) Omit making a cross mark in the circular space above the name of any party, and make a cross mark in the blank space before the name of each candidate for whom he desires to vote on whatever ticket he may be; or

(b) Make a cross mark in the circular space above the name of a party for some of whose candidates he desires

to vote, and then make a cross mark before the name of any candidate of any other party for whom he may desire to vote, in which case, the cross mark in the circular space above the name of a party will cast the elector's vote for every candidate on the ticket of such party, except for offices for which candidates are marked on other party tickets, and the cross marks before the names of such candidates will cast the elector's vote for them.

3. When two or more persons for the same office are to be voted for in any precinct, as two or more representatives or other officers, and the names of several candidates therefor appear on each party ticket, grouped under the office for which they all are running, the elector who has marked a ticket in the circular space at its head, and marked one or more of a group of candidates for such office on another ticket or tickets, must in addition to marking the ticket in the circular space at its head, also make a cross mark before each one of the group of candidates for such office for whom he desires to vote on the ticket thus marked; or instead of marking the candidates for such office he desires to vote for on the ticket marked by him, he may erase the names of candidates for such office for whom he does not desire to vote on the ticket thus marked by him to the number of candidates for such office marked by him on other party tickets, in which case his vote shall be counted for the candidates for such office not erased.

4. If an elector who has thus marked a party ticket in the circular space at the head thereof, and has marked one or more candidates on another ticket or tickets for an office for which there is more than one candidate on his own party ticket, fails or neglects to indicate either by individual marks or by erasures which of the several candidates for the same office on his own party ticket he desires to vote for, then the vote shall be counted only for the candidate or candidates for that office that have the distinguishing mark before his or their names.

5. If in marking either a straight or mixed ticket, a cross mark is made in the circular space above the name of a party at the head of a ticket, and also one or more cross marks made before the name or names of candidates on the same ticket for offices for which candidates on other party tickets are not individually marked, such marks before the names of candidates on the ticket so marked shall be treated as surplusage and ignored and the ballot be counted for all the candidates on the ticket thus marked for offices for which no candidates on other tickets are marked. This provision is subject to the exception in the preceding paragraph when two or more persons for the same office are grouped on party tickets.

6. If the elector desires to vote for a person whose name does not appear on the ticket, he can substitute the name by writing it in black lead pencil or in black ink in the proper place, and making a cross mark in the blank space at the left of the name so written.

7. If the elector marks more names than there are persons to be elected to an office, or if, for any reason, it is impossible to determine the voter's choice for an office to be filled, his ballot shall not be counted for such office.

8. If a question is submitted, the elector shall make a cross mark in the blank space at the left of and before the answer which he desires to give.

9. No ballot shall be rejected for any technical error which does not make it impossible to determine the voter's choice. (89 v. 444 § 21.)

NOTE:—A voter at a municipal election put a cross-mark on a ticket in the place provided to indicate a straight vote for that ticket; put no other mark on that ticket, but drew a line diagonally across the other ticket printed on the same ballot, there being but two tickets on the ballot, in such a way as to emphasize his intention to vote a straight ticket. *Held*: That his error in drawing such line is technical only, and his intention to vote a straight ticket being clear, the vote should not be rejected, but counted for all the candidates on the ticket on which the cross mark was made. And generally when the voter has indicated his intention to vote a straight ticket by placing a cross mark in the place provided at the top of the ticket, his vote should not be lost because of additional marks put by him on another ticket merely for the evident purpose of emphasizing such intention.

*Stearns v. Taylor et al.*, 1 N. P. 23.

The provision of the Australian ballot law that "all marks upon the ballot must be made with a black lead pencil" and the further provision that "no ballot shall be rejected for any technical error which does not make it impossible to determine the voter's choice," does not render invalid a ballot upon which the contestant's name was written with a blue pencil; nor a ballot upon which a black pencil line is drawn through the name of a candidate and the name of an opposing candidate written near and partly over it notwithstanding no cross mark appears opposite the latter's name; nor a ballot containing a ticket upon which no names of candidates appear in the printed designations of the several offices, whereon a name is written beneath the line designating the office for which the candidate whose name thus appears is running.

*State Ex rel. v. Conser*, 5 C. C. (N. S.) 119.

The provisions of the Australian ballot law, pertaining to the color of the pencil to be used in marking the ballot, the kind of a mark by which the voter indicates his choice and the place where the mark is to be put upon the ballot, are mandatory and must be substantially complied with before the ballot becomes a legal one and can be counted.

*In re Jones Contest*, 8 N. P. 395.

Where all the tickets on a ballot except one are marked off with long cross marks extending from the top of the ticket to the bottom, and there is no cross in the circle over the ticket which is not thus erased and no crosses opposite the names of the candidates on that ticket, the ballot should be rejected for failure on the part of the voter to exhibit any intention to comply with the statute in the marking of his ballot.

*Williams v. Barker*, 17 N. P. 679 (B. Aug. 5, 1907).

A ballot that is properly marked, with the exception of one particular office for which two candidates are voted, is valid, and under Rev. Stat. 2966 *et seq.* (Lan. 4534 *et seq.*) should be counted for all offices except that particular one.—*Ibid.*

A ballot with a straight mark or a circle within one of the circles over the several tickets does not indicate an honest desire on the part of the voter to comply with the statute, in designating the ticket he desires to vote, and such a ballot should be rejected; but where the mark in the circle at the head of a ticket shows only such an irregularity as might result from an awkward use of the pencil, the ballot should be counted. — *Ibid.*

SECTION 5071. If there was no nomination for a particular office by a political party, or if by inadvertence, or otherwise, the name of a candidate regularly nominated by such party is omitted from the ballot, and the elector desires to vote for some one to fill such office, he may do so by writing the name of the person for whom he desires to vote in the space underneath the heading or designation of such office, and make a cross mark in the circle at the head of the ticket, in which case the ballot shall be counted for the entire ticket, as though the name substituted had been originally printed thereon. (91 v. 119 § 21a.)

Substitution when no nomination made or nominee omitted.

This section confers no authority on the voter to write the name of a person on the ballot for an office, the printed designation of which does not already appear thereon. Atty. Gen. 12-2-1909.

SECTION 5072. Before leaving the voting shelf, the elector shall fold his ballot without displaying the marks thereon and so as to conceal them, but show the endorsements and facsimile of the signatures of the proper clerk or board, and keep the ballot so folded until he has delivered it to the presiding officer. (98 v. 225 § 22.)

Folding of ballot.

SECTION 5073. The elector shall return each and every ballot that he has received, and each, except such as are soiled or defaced as provided in this chapter, shall be deposited in the ballot box. One of the judges of elections shall receive the ballot, examine the secondary stub bearing the elector's registered number or name, for the purpose of identification, and thereupon pronounce with an audible voice the name of the elector. If the judges are satisfied that he is a citizen of the United States and legally entitled to vote at the election, the judge to whom such ballot was delivered shall detach the secondary stub and immediately deposit the ballot in the ballot box, without inspecting the names written or printed thereon. The clerks of elections shall enter the name and number of the elector in the poll books in the manner provided by law. (102 v. 185.)

How ballot received and deposited.

NOTE: — An action in mandamus to compel the board to make, certify, and transmit to the proper officers as required by law, the several abstracts of the votes shown by the tally sheets returned from the various election precincts of the county, may be instituted on the relation of any elector of the county.

State ex rel. v. Tanzy, et al., 49 O. S. 656.

SECTION 5074. The secondary stub shall be preserved until the polls are closed and shall then be destroyed before the ballot box is opened. The elector shall mark and vote his ballot without undue delay and shall leave such enclosed place as soon as he has voted. (98 v. 225 § 22.)

How secondary stub disposed of.

When person is deemed to have voted.

SECTION 5075. When a person has received an official ballot from one of the election officers and has delivered it to the election officer having charge of the ballot box at the time, and when such ballot has been deposited in the ballot box, such person shall be deemed to have voted. (98 v. 225 § 22.)

The question of qualification of a voter must be decided by the judges of election, at the time he presents himself to vote.

A ballot is not voted until it is deposited in the ballot box, and hence when a ballot was not deposited in the box because improperly folded, it cannot be counted.

Williams v. Barker, 17 N. P. 679. (B. Aug. 5, 1907).

Return of unvoted ballot.

SECTION 5076. Every elector who does not vote a ballot delivered to him by the ballot officer shall, before leaving the polling place, return such ballot to such officer. (98 v. 225 § 22.)

Number of persons in booths and within guard rail.

SECTION 5077. No elector not an election officer shall be allowed to re-enter such enclosed place during the election, except for the purpose of voting. No more electors shall be allowed to enter within the guard rail at any one time than there are voting shelves provided. The judges of election shall secure the observance of the provisions of this section. (98 v. 225 § 22.)

When electors may receive assistance in marking ballots.

SECTION 5078. Any elector who declares to the presiding judge of elections that he is unable to mark his ballot by reason of blindness, paralysis, extreme old age or other physical infirmity, and such physical infirmity is apparent to the judges to be sufficient to incapacitate the voter from marking his ballot properly, may upon request receive the assistance in the marking thereof of the two judges of elections belonging to different political parties, and they shall thereafter give no information in regard to the matter. The presiding judge may require such declaration of inability to be made by the elector under oath before him. Such assistance shall not be rendered for any other cause which the voter may specify. (98 v. 225 § 22.)

The preceding paragraph is the only authority provided by law for assisting an elector to mark his ballot.

Where two voters, one blind and the other infirm through extreme age remained in a carriage outside the polls and marked their ballots in the presence and under the direction of two of the election judges, and such ballots were then deposited by the judges, such irregularity will not invalidate these votes.

In re. Contest South Charleston election, 3 N. P. (N. S.) 373.

It is not the duty of the judges to instruct a voter how to mark his ballot unless such voter is physically unable to do so, by reason of blindness, paralysis, extreme old age, or other physical infirmity, and such physical infirmity must appear to the judges to be sufficient to incapacitate the voter from marking his ballot properly. Such assistance shall not be rendered for any other cause except as above stated.

SECTION 5079. No ballot without the official endorsement shall be allowed to be deposited in the ballot box, and none but ballots provided in accordance with the provisions of this title shall be counted. (98 v. 225 § 22.)

Unofficial ballots shall not be deposited in ballot box.

SECTION 5080. The county executive committee of each party having a ticket to be voted on at an election, may designate a suitable person to be present as inspector and witness and inspect the counting of the votes in each precinct, who shall be admitted to the voting place and be entitled to a copy of the certificates hereinafter provided for. In special elections, when there are no candidates to be elected, the judges of election at least one day before the election shall appoint and make public one known representative of each side of the question to be submitted, as inspector. No other person, except the election officers shall be admitted to the polling place before or after the count begins. (97 v. 225 § 23.)

Party inspector may be designated and admitted to polling place.

NOTE:—The words "Election officers" as used in Sec. 23 of the ballot act, includes the challengers.

Oliver v. Bode et al., 6 O. D. 57.

A committee of five named in nomination papers to represent an independent candidate, is not authorized to "designate a suitable person to be present as inspector to witness and inspect the counting of the vote in each precinct" within the provisions of this section.

The provisions of this section, as to the appointment of challengers and inspectors of elections, are not mandatory but directory only, and failure to make such appointments is an irregularity which does not invalidate an election at which there was a comparatively full vote cast with no evidence of fraud or attempts to deceive; nor does the dereliction of deputy state supervisors of elections, or of any of them, invalidate an election, where it does not appear that except for such dereliction there would have been a different result. State ex rel. Johnson et al. v. Village of McClure, 5 O. N. P. (N. S.) 541.

The words "voting place" should be construed to mean the room or apartment in which the judges are during the counting of the ballots.

A political party entitled, under this section to name an inspector, is a political party within the meaning of Sec. 2966-18.

No one other than election officers and inspectors shall be present or witness the count of ballots.

SEC. 5080-I. Not later than forty days prior to an election at which questions are to be submitted to a vote of the people, any committee which in good faith advocates or opposes a measure may file a petition with the board of deputy state supervisors of elections of any county asking that such petitioners be recognized as the committee entitled to nominate inspectors to the count at such election, as herein provided. If more than one committee alleging themselves to advocate or oppose the same measure file such petitions, the board of deputy state supervisors shall decide and announce by registered mail to each committee not later than thirty days immediately preceding the election, which committee is entitled to nominate such inspectors. Such decision shall not be final but any aggrieved party may in-

Nomination of inspectors when question submitted.

stitute mandamus proceedings in the common pleas court of the county wherein such deputy state supervisors have jurisdiction to compel such board of deputy state supervisors to certify the nominees of such aggrieved party to the judges of elections as herein provided.

Inspector to the count in each precinct; where nominations filed.

Any such duly recognized committee may nominate an elector as an inspector to the count in each precinct. Such committee shall file the names of the persons nominated with the deputy state supervisors of elections of the county in which the inspectors reside at least five days before the election. The committees may also file the names of the nominees for inspectors for each precinct with the chairman of the judges of election of that precinct. The deputy state supervisors of election shall certify the nominees for each precinct to the judges of elections of the respective precinct. If the deputy state supervisors of election have not certified nominations as herein provided forty-eight hours immediately preceding the election, the judges of election of each precinct shall appoint such nominees without such certification. In no case shall more than six such inspectors be appointed for any one election in any one precinct. If more than three questions are to be voted on, the committees which have nominated inspectors as herein provided, may agree upon not to exceed six inspectors and the judges of election shall appoint such inspectors. If such committees fail to agree the judges of election shall appoint six inspectors from nominees so certified in such manner that each side of the several questions shall be represented. (104 v. 124.)

Certificate and proclamation of vote cast.

SECTION 5081. Immediately upon the close of the polls, the number of electors entered and shown on the poll books as having voted, shall be first certified therein and signed by the board of judges and clerks. Before any other or further proceedings, the president or chairman of the board shall make proclamation in a loud voice outside of the polling room, stating the number of votes so shown and certified on the poll books. Thereupon the judges, in the presence of the clerks and inspectors above provided for, shall destroy the ballots remaining unvoted. (97 v. 235 § 23.)

Opening of ballot box and counting of ballots.

SECTION 5082. The ballot box shall then without adjournment or delay be opened, and, without opening any ballot or ascertaining its contents, the number of ballots shall first be counted. If the number of ballots exceeds the number of names on the poll books, the ballots shall be replaced in the box and one of the judges, with his back to the box and without seeing it, shall draw out, without showing them, and destroy a number of ballots equal to the excess. If, during the counting of the ballots or at the conclusion of the counting, an excess of ballots is discovered, all the ballots shall be returned to the box, and, after being thoroughly mingled, the excess shall, in the same manner, be drawn out and destroyed, and the count corrected ac-

cordingly. When ballots have thus been drawn out and destroyed, a minute of the number destroyed and the reason therefor shall be made on the tally sheet. (97 v. 235 § 24.)

NOTE:—A candidate who is present at the counting of the ballots, and declared himself satisfied with the result is not thereby estopped from contesting the election.

State ex rel. v. Conser, 5 C. C. (N. S.) 119.

SECTION 5083. One of the ballots shall then be taken out of the ballot box by one of the judges and shall forthwith be inspected by all the judges and inspectors. If the judges all agree as to how the ballot shall be counted, one of them shall place it where it can readily be seen by the other judges and by the inspectors, and shall read aloud distinctly the names of the candidates voted for and the answers to any questions that may have been submitted, and the clerks shall forthwith tally the same. In the event that the judges do not agree as to how any part of the ballot shall be counted, such ballot shall not be counted but shall be placed in an envelope provided for the purpose. The same method shall be observed in respect to all the ballots until all the ballots shall have been taken from the ballot boxes. (102 v. 186.)

Counting of votes.

NOTE:—If a voter makes a mark above or below or on the side or at the top of the column occupied by the name of the non-partisan candidate, his intention to vote for such candidate is clearly indicated and the ballot should be counted.

State ex rel. Mambach v. Markley, 9 O. C. C. (N. S.) 561.

SECTION 5084. If a ballot with a certain designated heading contains printed thereon in place of another, a name not found on a regular ballot having such heading, such name shall be regarded by the judges as having been placed thereon for the purpose of fraud and the ballot shall not be counted for the name so found. (R. S. Sec. 2952.)

When name printed on ticket fraudulently.

SECTION 5085. If two or more ballots are found folded or rolled together, it shall be conclusive evidence of their being fraudulent, and neither shall be counted. (R. S. Sec. 2953.)

When two or more ballots are folded together.

SECTION 5086. If a ballot contains a greater number of names for any office than the number of persons required to fill that office, it shall be considered fraudulent as to the whole of the names designated to fill such office, but no further. (R. S. Sec. 2954.)

When a ballot contains too many names.

SECTION 5087. A ballot shall not be considered fraudulent for containing a less number of names than are authorized to be inserted. (R. S. Sec. 2955.)

Ballot may contain less names than authorized.

SECTION 5088. The clerks shall enter in separate columns by tallies under or opposite the names of the persons voted for, and the answers to the questions that may have been submitted as provided in the form of tally sheets, all votes thus read by the judges. After the examination of the ballots has been completed, the number of votes for

Tally sheet entries.

each person and for the respective answers to each question submitted, shall be enumerated under the inspection of the judges and set down, as provided in the form of the tally sheets. (102 v. 186.)

Proclamation of result and certified in triplicate.

SECTION 5089. When the result of the ballot is ascertained it shall immediately be announced by one of the judges in front of the polling place and such result shall be embodied in a summary statement to be prepared by said judges and clerks in triplicate, one copy of which shall be certified by the judges and clerks and posted on the front of the polling place, and two copies, similarly certified, to be transmitted forthwith to the board of deputy state supervisors of elections in a sealed envelope separate from that containing the poll book and tally sheet. Such board shall immediately upon receipt of such summary statements, compile and prepare an unofficial count and on the day following the election shall certify the result thereof to the secretary of state. (103 v. 28.)

Unofficial count certified to secretary of state on day following election.

Preserving and counting of disputed ballots.

SECTION 5090. If there are any ballots placed in the envelopes for uncounted ballots, such envelopes shall be sealed and returned to the deputy state supervisors with the returns of the election, to be by them counted. At least one day before the beginning of the official count, the board of deputy state supervisors, in the presence of one person duly authorized by the chairman of each county controlling committee and the chairman of the committee of each set of candidates nominated by petition, shall open the envelopes containing the uncounted ballots and determine what part and for whom each such ballot shall be counted, and proceed to count and tally the same. Said ballots shall be further preserved for such judicial or other investigation as may be necessary. (103 v. 266.)

Preservation of all ballots.

SEC. 5090-1. Before separating, the judges and clerks shall fold in two folds and string closely upon a single piece of flexible wire, all ballots which shall have been counted by them, unite the ends of such wire in a firm knot in such manner that it cannot be untied without breaking the seal, enclose the ballots so strung in a secure cloth or heavy paper covering and securely tie and seal such covering with official wax impression seals, to be provided by the deputy state supervisors of elections, in such manner that it cannot be opened without breaking the seals, and deliver said ballots in such sealed covering to the deputy state supervisors of elections, and such officers shall carefully preserve such ballots for thirty days, and at the expiration of that time shall destroy them by burning without previously opening the package. Such ballots shall be destroyed in the presence of the official custodians thereof and two electors of approved integrity and good reputation and members respectively of the two leading political parties. The said electors shall be designated by the board of deputy state supervisors of elections of the county in which such ballots are kept; provided that if any contest of election shall be

When and how ballots shall be destroyed.

pending, at the expiration of said time the said ballots shall not be destroyed until such contest is finally determined. In all cases of contested elections, the parties contesting the same shall have the right, after a prima facie case of fraud, mistake or error is shown, to have said ballots opened and to have all errors made in counting corrected by the court or body trying such contest; but such ballots shall be opened only in open court or in open session of such body and in the presence of the officers having the custody thereof. (106 v. 209.)

Opening of  
ballots in  
contested  
cases.

SECTION 5090-1. At presidential elections, the names of the candidates for president and vice president shall be printed on the tally sheet. When, upon a ballot, all the candidates of the same party for presidential elector are voted for, one of the judges shall so announce and the clerks shall record such votes by a tally opposite the names of the candidates for president and vice president. When, upon a ballot, candidates for more than one party for presidential elector, or less candidates for presidential elector than are to be elected, are voted for, one of the judges shall so announce and the clerks shall record such votes by a tally opposite the name of the proper candidate for presidential elector. The total of all votes cast for each candidate for presidential elector shall be enumerated under the inspection of the judges and set down to the credit of the presidential elector so voted for. (102 v. 186.)

Presidential  
elections.

SECTION 5090-2. If three or more electors of any election district have reason to believe that a name appearing upon any election register made for the registration of electors for a succeeding election is illegally registered, they may apply in writing to any common pleas judge of the judicial district or the probate judge of the county in which the election precinct, upon the register of which such name appears, is situated, for an order to strike such name from the register. Such application shall not be made later than the Tuesday preceding such election. At the time of so applying, they shall present to the said judge an affidavit signed by one or more of them, setting forth their reasons for believing that the said name is illegally registered. Said judge shall forthwith consider said application, and if he shall determine from said affidavit or other evidence that there is reasonable ground for believing that said name is illegally registered he shall forthwith cause notice of said application to be served by the sheriff upon the person, the registration of whose name is attached, and a copy of such notice to be mailed to him by special delivery to the address which appears from the register to be his residence. This service shall be made by leaving a copy of the notice with said person, or, if he be not found, then by leaving a copy thereof at the place which appears from the register to be his residence. Return thereof shall be made within forty-eight hours. Said notice shall briefly state the substance of the said application and shall order such person to appear

Order to  
strike from  
register names  
illegally regis-  
tered; how  
obtained.

before said judge in the court house of the county in which such voting precinct is situated, at an hour to be named therein, which shall be at least forty-eight hours after the service of such notice. At the hour named for the appearance of such person, the said judge shall proceed to investigate whether such name is illegally registered. Witnesses may be summoned in the usual way to testify in regard thereto. If the judge shall find that said name is illegally registered, he shall order such name to be stricken from the register by an order directed to the election judges of said precinct, which order shall be served by the sheriff or coroner and carried into effect by said election judges upon the evening of the day before said election takes place, unless changed, as hereinafter directed. As to all persons who have been personally served, and as to all persons who have entered appearance thereto, said order shall be final; but all persons who have not been personally served, or entered their appearance, shall have the right to apply to said judge at any time before four o'clock p. m. on the day preceding the election to have said order set aside, and if, upon the hearing of said application, the said judge shall not be of the opinion that his name was illegally registered, he shall set aside said order and shall cause notice thereof to be served upon the election judges. The fees of the sheriff, clerk or coroner shall be the same as are allowed in civil cases. The costs of such proceeding shall be paid by the electors making the application in the event a final order is not made granting the application. (102 v. 187.)

Register of  
arrival and  
departure  
of guests.

SECTION 5090-3. Every landlord, proprietor, lessee or keeper of a lodging house, inn or hotel in cities having annual registration shall keep a register in which shall be entered the name, residence, the date of arrival and departure of his guests, and the room or bed occupied by them. This register shall be so arranged that there shall be a space on the same line in which such guest shall sign his name.

Every such landlord, proprietor, lessee, owner, or person in charge of a lodging house, inn or hotel, shall annually on a blank form to be prepared and furnished by the secretary of state, on the Monday prior to the first registration day in such cities, make to the board of deputy state supervisors and inspectors of elections a sworn report showing the location by ward and precinct and by street and number of the premises so used, the names of the lodgers therein, the names of all employes and all other persons living therein, including the landlord, proprietor, lessee, owner or person in charge and members of his family who claim a voting residence at or in such lodging house, inn or hotel, together with the length of time they have been regularly lodging or living therein, the beginning of such residence, color, age, height, weight, color of hair, complexion, or any distinguishing marks of face or body whereby such persons may be identified, place of their nativity, occupation and place of business, of such persons and the room occupied by each said person, and whether such persons are guests,

landlord, proprietor, lessee, owner or person in charge, and the signature of each said person. Above the space reserved for the signature of each said person shall be printed the following words: "The foregoing statements are true." In the form of affidavit which shall be sworn to by the land-

Affidavit.

lord, proprietor, lessee, owner or person in charge of such lodging house, inn or hotel, shall be included the statement that the signature of the guests or lodgers certified to in said report were written in the presence of such landlord, proprietor, lessee, owner or person in charge, and that he personally knows them to be the persons therein described. To the end that the sworn report herein required shall truly set forth the facts therein stated it shall be the duty of the said landlord, proprietor, lessee, owner or person in charge to question each male person lodging or living in such lodging house, inn or hotel as to his intention of claiming such place as a voting residence and such person shall thereupon declare his intention in respect thereto, and if he claims such place as his voting residence he shall give to such landlord, proprietor, lessee, owner or person in charge such facts regarding himself as are required, to be incorporated in the sworn report herein provided for.

Penalty.

SECTION 5090-4. Any two members of the board of deputy state supervisors and inspectors of elections in such cities shall have the right throughout the year whenever deemed necessary by them, to require the owner, lessee, or person in charge of any hotel, inn, lodging house or dwelling to make to said board within ten days after notification, a sworn report upon a blank to be prepared and furnished by such board, which said report shall contain a list giving the names of every male person of twenty-one years and upwards who resides in said hotel, inn, lodging house or dwelling, together with the period they have resided therein, and such other information as shall be deemed necessary by said members and said members shall have the power whenever deemed necessary by them, to require said owner, lessee or person in charge in addition to notify said board whenever any of such male persons shall within nineteen days before election leave said hotel, inn, lodging house or dwelling.

Power of board to require report at any time.

Any owner, lessee or person in charge of such hotel, inn, lodging house or dwelling in such cities who neglects to furnish said list when so demanded and within ten days after notification, shall be fined not to exceed five hundred dollars.

Penalty for neglect to furnish list.

Any owner, lessee or person in charge of such hotel, inn, lodging house or dwelling who shall furnish said board a list which states that a male person has resided in said premises a longer time than he has actually resided therein,

or puts upon said list a name under which no person has resided any length of time in said premises, shall be fined not less than two hundred and fifty dollars nor more than one thousand dollars. (102 v. 189.)

Period during which judges and clerks shall not separate or leave polling place.

SECTION 5091. From the time the ballot box is opened and the count of votes begun, until the votes are counted and the returns are made out, signed and certified, as herein required, and delivered to the judges selected for such duty for transmission, as required in the next chapter, the judges and clerks of elections in each precinct shall not separate, nor shall a judge or clerk leave the polling place except from unavoidable necessity. For a violation of this section, a judge or clerk shall forfeit and pay not less than fifty dollars nor more than one hundred dollars. (97 v. 236 § 25.)

Election officer cannot be candidate except for committeeman or delegate.

SECTION 5092. No person, being a candidate for an office to be filled at an election, other than for committeeman or delegate or alternate to any convention, shall serve as deputy state supervisor or clerk thereof, or as a judge or clerk of elections, in any precinct at such election. A person serving as deputy state supervisor or clerk thereof, judge or clerk of elections contrary to this section shall be ineligible to any office to which he may be elected at such election. (103 v. 496.)

NOTE:— A deputy state supervisor may not be a candidate for member of the board of education. Atty. Gen. 8-17-09.

While a judge or clerk of elections can not be a candidate, where such a person has received a sufficient number of votes by electors writing his name on the ballot for a particular office, and such votes are in conformity to law in all other respects, such person should be declared elected to that office.

## CHAPTER 10.

### RETURNS AND ABSTRACTS.

**SECTION**

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- 5094. Opening returns; abstracts to be made.
- 5095. Making and transmission of abstracts.
- 5096. Secretary of state shall canvass returns for presidential electors; certificate of election.
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- cers and members of the general assembly.
- 5110. Provisions relating to poll books, abstracts and returns.
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- 5123. Want of form shall not invalidate poll books.
- 5123-1. Return of votes cast for and against proposed constitutional amendments.
- 5123-2. Returns certified to state supervisor of elections within ten days; opening and canvassing returns.

SECTION 5093. The judges and clerks in each precinct shall make out the returns of the election in duplicate, sign and certify one of the poll books and tally sheets thereof, and immediately transmit it to the deputy state supervisors by the presiding judge or such other judge as he may designate. The other poll book and tally sheets signed and certified in like manner shall be forthwith deposited with the clerk of the township or the clerk or auditor of the municipal corporation, as the case may require, by another judge designated by the presiding judge, and shall be preserved one year from the date of such election. Such returns shall be securely sealed in an envelope and addressed transversely upon the upper end thereof to the proper officer with whom they are to be deposited, with the designation of the township, precinct and county. In registration cities, such delivery shall be made as provided in the chapter relating to registration. (97 v. 236 § 25.)

Making and transmission of returns.

SEC. 5094. Within five days after the election, or sooner in case the returns are made, the board of deputy state supervisors of the county shall open the several returns made to it and make abstracts of the votes in the following manner:

Opening returns; abstracts to be made.

1. Upon a single sheet an abstract of votes for governor, lieutenant governor, secretary of state, auditor of state, treasurer of state and attorney general.

2. Upon another sheet an abstract of votes for governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, chief justice of the supreme court, judge of the supreme court, United States senator and for representatives to congress.

3. Upon another sheet an abstract of votes for governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, chief justice of the supreme court, judge of the supreme court, judge of the court of appeals, judge of the common pleas court, United States senator, representatives to congress, senators and representatives to the general assembly, judge of the probate court, clerk of the common pleas court, sheriff, county auditor, county commissioner, county treasurer, county recorder, county surveyor, prosecuting attorney and coroner.

4. And upon another sheet an abstract of votes for each elector of president and vice president of the United States. (104 v. 11.)

NOTE:—As to powers of an election board after canvass has been completed, see *State ex rel. v. Donnewirth*, 21 O. S. 216.

Under the thirty-fourth section of the election law (S. and C. 536) where the poll-books upon their face are substantially correct, the justices and clerk, in making an abstract of votes, are not authorized to reject such poll-books on account of fraud in the election.

*Phelps v. Schroeder*, 26 O. S. 549.

In an action to enjoin the clerk of the court of common pleas of Wood county from recording the abstract of the vote in said county upon the question of the removal of the county seat, held that allegations of fraud and illegality in conducting the election, constitute no sufficient ground for such injunction. Wrongs of such a nature can be inquired into and redressed, only by means of a contest of the election, pursuant to the provisions of the act of April 15, 1857.

*Peck v. Weddell*, 17 O. S. 271.

An action in mandamus to compel the board to make, certify, and transmit the proper officers as required by law, the several abstracts of the votes shown by the tally sheets returned from the various election precincts of the county, may be instituted on the relation of any elector of the county.

*State Ex rel. v. Tanzey et al.*, 49 O. S. 656.

Making and  
transmission  
of abstracts.

SECTION 5095. The board of deputy state supervisors shall make and certify duplicate copies of abstract number one, and inclose and seal them and endorse on the envelope "Certificate of the votes for governor, lieutenant governor, secretary of state, auditor of state, treasurer of state and attorney general", either or all as the case may be, and the name of the county in which the votes were given, and shall direct and forward one copy thereof by mail to the president of the senate at Columbus, and deliver the other copy to a member of the general assembly who shall deliver it to the president of the senate at Columbus.

The board also shall forthwith make, certify, seal and so endorse copies of abstracts numbers two and three and transmit them by mail to the secretary of state at Columbus.

The board shall make and certify duplicate copies of abstract number four, one of which the board shall inclose, seal, and endorse on the envelope, "Certificate of votes for electors of president and vice president of the United States", adding the name of the county, and shall mail it to the secretary of state at Columbus. The other copy shall be filed in the office of the board. (R. S. Sec. 2983.)

SECTION 5096. When the returns of an election of electors of president and vice president of the United States are received from all the counties, the secretary of state, in the presence of the governor, auditor of state, and such other state officers as choose to attend, shall open the returns of abstract number four, and, as they are opened, cause them to be read aloud, and shall make an abstract, showing the number of votes given for each person for such office. If two or more such persons receive an equal number of votes, the secretary of state, in the presence of such state officers, shall determine by lot which of such persons is duly elected. The governor shall make and transmit by mail to the persons having the highest number of votes, or whose election was so determined by lot, certificates of their election to the office of elector of president and vice president of the United States, and shall cause notice of their election to be published in three newspapers, published at Columbus, two of which shall be of opposite politics. (R. S. Sec. 2970.)

Secretary of state shall canvass returns for presidential electors; certificate of election.

SEC. 5097. Within ten days after the first day of December next after such election, the governor and secretary of state, in the office of the secretary of state, in the presence of the auditor of state and attorney general, shall open the returns of abstract number two, made to the secretary of state for judge of the supreme court, for United States senator and representatives to congress from each congressional district. If it appears that returns have been received from all the counties in accordance with the provisions of this chapter, the governor and secretary of state forthwith shall proceed to ascertain the number of votes given for the different persons for such offices. (104 v. 11.)

Canvass of returns of abstract number two.

NOTE:—Where the governor and secretary of state, under Section 2986 of the Revised Statutes, in canvassing the returns of votes from a congressional district, aggregate the votes returned from one county for H. L. Morey with the votes returned from the other counties for Henry L. Morey, treating the names as designating the same person, the mandamus will not be awarded, requiring the votes thus aggregated to be counted as given for different persons in the absence of an averment that the votes were intended for different persons.

State Ex rel. v. Foster, 38 O. S. 599.

SECTION 5098. If such returns have not been received from all the counties, and returns of abstract number three have been received by the secretary of state from the delinquent counties, as herein provided, the governor and secretary of state shall be governed, so far as relates to such delinquent counties, by the last mentioned abstract. The

When other returns may be used in canvass.

persons having the highest number of votes for the respective offices named in the preceding section shall be considered duly elected. The secretary of state may open the returns of abstract number three as they are severally received by him. (R. S. Sec. 2987.)

When president of senate shall open abstract.

SECTION 5099. During the first week of the session of the general assembly, the president of the senate shall open and publish the abstracts of votes by him received, in conformity to the third section of the third article of the constitution of the state. If the abstract from any county has not been received by him, recourse shall be had to abstracts number two or three in the office of the secretary of state. (R. S. Sec. 2984.)

Who shall canvass vote if general assembly is not in session.

SECTION 5100. If the general assembly is not in session previous to the second Monday in January next after an election for any or all of the executive officers of the state, the governor and secretary of state, within five days after the first Monday in January after such election, shall, in the office of the secretary of state, in the presence of at least two of the judges of the supreme court, open the returns of abstract number two made to the secretary of state for such offices. If such returns have not been received from all the counties, recourse shall be had for such delinquent counties to the returns of the abstract number three. They shall forthwith proceed to ascertain the number of votes given for the different persons for the several offices of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state and attorney general, as the case may be. The person having the highest number of votes for each of such offices shall be considered duly elected and shall be so declared by the governor. If it appears from the returns of such abstracts that two or more persons have the highest and an equal number of votes for any of such offices, the governor shall communicate such fact to the general assembly by message at its first session thereafter. (R. S. Sec. 2985.)

Tie vote for congressman decided by lot.

Certificates of election.

SECTION 5101. If it appears from the returns of abstracts that two or more persons in any congressional district have the highest and an equal number of votes for representative to congress, the governor and secretary of state shall decide by lot which of such persons is duly elected. The governor shall transmit to each person so elected a certificate of his election, which shall be signed by the governor, sealed with the great seal of the state and countersigned by the secretary of state (R. S. Sec. 2991.)

When abstracts to be canvassed.

SECTION 5102. If the returns of abstracts from all the counties composing a congressional district are not made within the time required by law, and if any of them are made after the certificate of election has been forwarded to the person who, according to the abstracts received, has the highest number of votes, the secretary of state, in the presence of the governor, or, if he is absent,

in the presence of the auditor of state and treasurer of state, when such abstracts shall have been received, shall open them, and the governor shall certify such returns to the speaker of the house of representatives of the United States. (R. S. Sec. 2992.)

SECTION 5103. In an election for member of congress to fill a vacancy, the board of deputy state supervisors of each county embraced in the district in which the election is held, within six days after the election, shall make and certify an abstract in duplicate of the votes cast at such election in their county. Such board shall file one copy of the abstract in its office and enclose the other in an envelope so endorsed as to show distinctly that it is an abstract of votes, for what office and from what county, and transmit it without delay to the secretary of state. If the secretary of state fails to receive the abstract from any county within twelve days after such election, he shall forthwith notify the deputy state supervisors thereof, and they shall, on receipt of the notice, forthwith make and transmit to the secretary of state a certified copy of the duplicate on file in their office. (R. S. Sec. 2989.)

Returns of special election of member of congress.

SECTION 5104. On the twenty-first day after the holding of such special election, or sooner, if all the returns have been received, the secretary of state, in the presence of the governor, or, in his absence, in the presence of the auditor of state and treasurer of state, who on notice given by the secretary are required to attend forthwith at the office of the secretary of state, shall open the abstracts and canvass the votes. The person having the greatest number of votes shall be declared duly elected, and the governor shall forthwith transmit to him by mail a certificate of his election. (R. S. Sec. 2990.)

Votes to be canvassed by secretary of state.

SECTION 5105. When two or more counties are joined in a judicial or senatorial district, the board of deputy state supervisors of each county of such district having a population not the largest, shall make, and, within eight days after the day of election, transmit by mail to the board of deputy state supervisors of the county in the district having the largest population, an abstract showing the number of votes given in each election precinct in such county, for each person who receives votes for an office to be filled by the district. Such abstract shall be attested by the board and enclosed in an envelope so endorsed as to show distinctly that it is an abstract of votes, for what offices and from what county. It shall be opened and canvassed as herein provided for state offices, by the board of deputy state supervisors to whom transmitted, who shall incorporate such vote in an abstract with the returns from the precincts of their county for such offices. Such board shall make and transmit to the persons elected certificates of their election. (103 v. 422.)

Abstracts and certificates in judicial or senatorial districts.

Special elections of senators or representatives to the general assembly.

SECTION 5106. When a senator or representative to the general assembly or other district officer is to be elected at a special election, the judges of such election shall make return of the poll books thereof to the board of deputy state supervisors of their respective counties. On the sixth day, or sooner, in case the returns are all made, the board shall open the returns and make an abstract of the votes cast for such officers and make and deliver to the person or persons elected certificates of election. (90 v. 281 § 1.)

Abstracts in districts containing two or more counties.

SECTION 5107. If an officer named in the preceding section is to be elected from a district containing two or more counties, the board of deputy state supervisors of the county or counties comprising such district, except the board of the county in such district having the largest population, shall, within eight days after such election, transmit by mail to the board of deputy state supervisors of the county in such district having the largest population, an abstract showing the number of votes given in each precinct in the respective counties for each person who received votes for any office to be filled by such district. Such abstract shall be attested by the chief deputy state supervisor and clerk of the board, and inclosed in an envelope so endorsed as to show distinctly that it is an abstract of votes, for what office or offices and from what county it was transmitted. Such abstract shall be canvassed by the deputy state supervisors to whom transmitted, who shall incorporate the vote in an abstract with returns from the precincts of their county for such office or offices, and make and transmit to the person or persons elected certificates of their election. (90 v. 281 § 1.)

Tie votes for county officers and members of the general assembly.

SECTION 5108. In an election for county officers, if any number of persons greater than the number of offices directed to be filled at such election, have the highest and an equal number of votes, the board of deputy state supervisors of the county shall determine by lot which of the persons shall be duly elected. If at an election for senators or representatives to the general assembly, there is no choice on account of two or more having received the highest and an equal number of votes, the board required to issue certificates of election therefor shall publicly determine by lot who of those having such equal number of votes shall be elected. Such decision by lot shall be made in the office of such board at ten o'clock forenoon on the eighth day after the election. In such case, the deputy state supervisors shall not be required to forward the returns of the election until such decision by lot has been made. (R. S. Sec. 2993.)

Certificates of election of county officers and members of the general assembly.

SECTION 5109. When it has ascertained and declared the result of an election for county officers, the board of deputy state supervisors, without fee, shall make and, upon demand, deliver to the persons elected respectively to the offices of probate judge, clerk of the court of common pleas, sheriff, coroner, auditor, commissioner, treasurer, recorder,

surveyor, prosecuting attorney, infirmary director, and senator and representative to the general assembly, certificates of their election. Upon being paid one dollar therefor the board shall also make for any elector of the county an abstract of votes cast at an election to fill any of such offices. (R. S. Sec. 2995.)

NOTE:—In certifying the election of an officer the power of the deputy state supervisors of elections is limited to certifying that the successful candidate has been elected and they have no power to decide upon a disputed term of office.

State Ex rel. Pardee v. Pattison, Governor et al., 73 O. S. 305.

SECTION 5110. The board of deputy state supervisors shall not receive any paper as a poll book of any precinct, unless it is delivered by one of the judges of election held in such precinct. In making the abstracts of votes, the board shall not decide on the validity of the returns, but it shall be governed by the number of votes stated in the returns. (R. S. Sec. 2982.)

Provisions relating to poll books, abstracts and returns.

SECTION 5111. In November elections held in odd numbered years for township officers, justices of the peace, municipal officers and members of boards of education, the judges and clerks of elections in each precinct shall make and certify the returns to the clerk of the township or the clerk or auditor of the municipality in or for which the election is held or the clerk of the board of education of the school district, respectively, instead of to the board of deputy state supervisors of the county. This provision shall not apply to the returns of elections for assessors of real property. (97 v. 223 § 8.)

Returns of November elections in odd numbered years.

SECTION 5112. The returns of township elections shall be made by the judges and clerks in the several precincts to the proper township clerk within one day after the election. Such clerk shall canvass the vote, declare the result and issue and deliver certificates to the officers so elected. (R. S. Sec. 2996.)

Canvass of vote for township officers.

SECTION 5113. If two or more persons have the highest and an equal number of votes for any one of the township offices directed to be filled, the clerk of the township shall determine by lot which of such persons is duly elected. (R. S. Sec. 1448.)

Tie vote for township officers.

SECTION 5114. The returns of municipal elections shall be made by the judges and clerks in each precinct to the clerk or auditor of the municipality. Such clerk or auditor, or, in his absence or disability, a person selected by the council, shall call to his assistance the mayor, and, in his presence, make an abstract and ascertain the candidates elected, as herein required with respect to county officers. Such clerk or auditor shall make a certificate as to each candidate so elected, and cause it to be delivered to him. If there is no mayor, or he is absent, disabled or

Abstract of vote for municipal officers.

a candidate at such election, the clerk or auditor shall call to his assistance a justice of the peace of the county. (R. S. Secs. 1728, 1729; 97 v. 223 § 8.)

NOTE:—The village clerk in canvassing the returns of a village election has no authority to go back of the returns made by the judges and clerks of election. The proper course is to issue certificates to the persons shown by the face of such returns to have received a majority of the votes cast for the several officers named therein.

The returns of the first election for village officers should be made to the township clerk, whose duty it is to canvass the returns and issue certificates of election to the officers of the newly constituted village. Thereafter all returns of municipal elections will be made to the clerk of the village.

Where returns of a municipal election have been erroneously certified to the board of deputy supervisors, the state supervisor may order the clerk of such board to deliver them to the clerk or auditor of the municipality. Atty. Gen. 12-24-07.

How returns  
made and  
canvassed in  
registration  
cities.

SECTION 5115. In registration cities the returns of the election of municipal officers, members of boards of education or justices of the peace shall be made to the board of deputy state supervisors of the county in which such city is located, and canvassed by a board of canvassers, consisting of such board of deputy state supervisors and the city auditor. (97 v. 223 § 8.)

NOTE:—Neither the board of deputy state supervisors and inspectors of elections nor municipal board of canvassers may challenge the correctness of tally-sheets certified to them by officers of a municipal election. Atty. Gen. 11-26-08.

Tie vote in  
election for  
municipal  
officers.

SECTION 5116. If the result of an election for municipal officers cannot be determined from the votes cast for the reason that more than the number of persons to be elected have an equal number of votes for the same office, the officers whose duty it is to ascertain the persons elected, shall determine by lot which of such persons shall be declared elected. (R. S. Sec. 1731.)

NOTE:—The determination by a council of the contested election of a member of its body, cannot be reviewed on error.

Stearns v. Village of Wyoming et al., 53 O. S. 352.

The jury selected to try a contested election case instituted by a rival candidate against one who has, by the proper authority, been declared duly elected to the office of mayor at a regular municipal election, is authorized to decide, and should determine which of the candidates was elected, or, that there was no valid election of either, as the fact may warrant; a finding that the contestee did not receive a majority of all the legal votes cast at that election, and a decision that, therefore, he was not elected to the office, is incomplete, and insufficient to defeat his title to the office.

A mayor of a municipal corporation who has been regularly elected to the office, is entitled to serve until his successor is qualified; and while he continues to so serve on account of the failure to elect his successor there is no vacancy in the office nor is the council authorized to make an appointment thereto.

State ex rel. v. Wright, 56 O. S. 540.

SECTION 5117. In elections for judges of the superior court of Cincinnati, held within such city, the poll books shall be returned and abstracts and certificates made, as provided for municipal elections. Such certificates shall be transmitted by the officer making them to the governor who shall issue commissions to the persons elected. (R. S. Sec. 484.)

Returns of election and certificates for judges of superior court.

SECTION 5118. In case of an election of a justice of the peace, the township clerk or auditor of the municipality, as the case may be, shall certify the result of such election to the board of deputy state supervisors. (97 v. 223 § 8.)

Result of election of justice of the peace; how certified.

SECTION 5119. In elections of assessors of real property, the judges and clerks of election in each precinct shall keep a separate poll book for such election, and the returns thereof, duly certified as in other cases, shall be made to the board of deputy state supervisors of the county, which board shall open the returns, canvass the vote and declare the result, and within ten days thereafter give notice to each of the persons so elected. (100 v. 81 § 1.)

Returns and canvass of vote for assessors of real property.

SECTION 5120. In school elections, the returns shall be made by the judges and clerks of each precinct to the clerk of the board of education of the district, not less than five days after the election. Such board shall canvass such returns at a meeting to be held on the second Monday after the election, and the result thereof shall be entered upon the records of the board. (97 v. 354 § 1.)

Canvass of vote in school elections.

SECTION 5121. In the canvass of the vote for members of the board of education, or assessors of real property, the person having the highest number of votes shall be declared elected, and the next highest, and so on, until the number required to be elected shall have been selected from the number having the highest number of votes. If any number of persons greater than the number to be elected at such election have the highest and an equal number of votes, the board making the canvass shall determine by lot which of the persons shall be duly elected. (97 v. 354 § 1; 98 v. 116 § 1; 100 v. 81 § 1.)

How result determined in certain cases.

SECTION 5122. Where it is provided by statute that a question shall be submitted to the qualified voters of a county, township, city or village, and such statute is silent as to the number of votes necessary to authorize the performance of the act voted upon, such statute shall mean that a majority of all the qualified voters voting at such election must vote in favor thereof, in order to authorize such act. (90 v. 130 § 1.)

Number of votes necessary when statute is silent.

NOTE:—As to definition of term "majority" as applied to special election. State Ex rel. v. Amlin, 13 O. D. 334.

As to method of counting votes upon the question of construction, reconstruction, enlargement or repair of bridges, see Walbridge v. Jones, 22 C. C. 682.

As to majority of votes requisite at an election, and otherwise the trustees of a township to levy a special tax, see Enyart et al. v. Trustees, 25 O. S. 618.

Want of form shall not invalidate poll books.

SECTION 5123. No election shall be set aside for want of form in the poll books, provided they contain the substance. (R. S. Sec. 2962.)

Returns of votes cast for and against constitutional amendments.

SEC. 5123-1. Whenever any amendments to the constitution are proposed to be submitted to the people, said amendments shall be submitted at the regular election to be held on the first Tuesday after the first Monday of November of the same year, and the judges and clerks of election in each township, ward and precinct shall, in addition to the returns provided by law, at the same time make return to the deputy state supervisors of elections of the vote cast for and against any proposed amendments to the constitution of Ohio that may be submitted to the voters of the state for adoption or rejection at such election. (106 v. 479.)

Returns certified to state supervisor of elections within ten days; opening and canvassing returns.

SECTION 5123-2. A return of the votes cast for and against any such proposed amendment or amendments shall be certified and made by the deputy state supervisors of elections of each county to the state supervisor of elections, within ten days after said election; and within thirty days after such election the governor, secretary of state and attorney general shall open and canvass said returns, and ascertain whether or not a majority of the electors voting on each several amendment have voted in favor thereof and if the majority of the electors voting on any amendment shall have voted in favor thereof, the governor shall make proclamation thereof without delay and such amendment shall become a part of the constitution. (103 v. 724.)

## CHAPTER 11.

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#### MUNICIPAL OFFICERS.

- 5169. Contest of election of municipal officers.

#### UNDER STATE REFERENDUM.

- 5169-1. Contests under state referendum; time and place of filing petition; notice of contest; holding of ballots.
- 5169-2. Naming of judge to hear contest; where hearing held.
- 5169-3. Procedure where contest involves counting of ballots.
- 5169-4. Contests in subdivisions.
- 5169-5. When precinct ballots shall be void.
- 5169-6. Precinct vote shall not be counted when bribery, etc., is proven.
- 5169-7. Procedure in cases of fraud, etc., not involving recount.
- 5169-8. Naming of challengers when questions are submitted.
- 5169-9. How number of challengers determined.
- 5169-10. Blank ballots shall be tallied and certified.
- 5169-11. Failure of election officials to perform duty a misdemeanor.
- 5169-12. Attempt to hinder inspector or challenger in performance of duty.
- 5169-13. Wearing badge, etc., indicating preference, by election officials, prohibited.
- 5169-14. Judges and clerks; offenses of relating to ballots.
- 5169-15. Appointment of special deputy sheriffs.
- 5169-16. Violation, prima facie case of fraud.
- 5169-17. Penalty; fined and disqualified as election official.

#### PRESIDENTIAL ELECTORS.

SECTION 5124. Any qualified voter may contest the election of the electors of president and vice president of the United States, or any of them, by serving notice upon each contestee in the manner and time prescribed in case of contest of the election of county officers, and filing a copy of such notice with the governor within five days after the mailing by him of the certificates of election of such Presidential electors.

electors. The provisions of law relating to the taking of testimony in contest of elections of county officers shall apply to such contest, except that all testimony taken and all matters relating to the contest shall be sent to and filed with the secretary of state before the day appointed by the governor for the hearing. Such contest shall be heard and determined as hereinafter provided. (R. S. Sec. 2970a.)

Commission to  
hear contest.

SECTION 5125. Upon the filing of a copy of such notice with the governor, he shall within five days appoint four judges of the court of appeals, not more than two of whom shall be of the same political party, or so reputed to be, who, with the governor, shall be a commission to hear and determine such contest. He shall appoint the time of such hearing, which shall be within ten days, and give such judges notice thereof. Thereupon a certified copy of the notice filed with the governor by the contestor, and notice in writing to the contestee or contestees of the time so appointed for the hearing, requiring him or them to attend in the hall of the supreme court at Columbus at such time, and answer the contest, shall be issued by the secretary of state to the sheriff of Franklin county, or if he is disqualified, to the coroner thereof. Such certified copy and notice in writing shall be served by the sheriff or coroner upon such contestee or contestees in any county, and return thereof made to the secretary of state, as upon summons in civil action. The secretary of state shall act as secretary of the commission and discharge such duties as it directs. (103 v. 422.)

Powers of and  
rules govern-  
ing commis-  
sion.

SECTION 5126. In hearing and determining such contest, the commission shall have and exercise all the powers and authority and be governed by the same rules of procedure as are hereinafter prescribed for contests of elections of state officers, so far as they are applicable and subject to the constitution and laws of the United States. In any order or vote by the commission in the final decision or judgment upon the contest, the governor shall vote, if the other members of the commission are equally divided, and not otherwise. Upon the contest at any election of electors of president and vice president of the United States, the judgment of the commission shall be final and conclusive thereof, and the record of the judgment and proceedings shall be filed and kept by the secretary of state in his office. (R. S. Sec. 2970c.)

Proceedings  
under judg-  
ment of  
ouster.

SECTION 5127. If the contestee or contestees are ousted by the judgment of the commission, the certificates of election issued to him or them shall be null and void. The governor shall forthwith make and transmit by mail to the person or persons ascertained and determined by the judgment of the commission to have been duly elected, a certificate of his or their election to such office and shall cause notice of his or their election and of such judgment to be proclaimed and published as prescribed by law in case of original notice of election of electors. (R. S. Sec. 2970d.)

SECTION 5128. The commission shall render judgment against the party failing in the contest for all the costs, including costs of depositions filed and allowed. Execution therefore shall be issued to any sheriff in the state and levied and collected as upon judgment and execution at law. Security for costs, satisfactory to the secretary of state, shall be given by the contestor or contestors before notice of the contest shall be issued by him. (R. S. Sec. 2970e.)

Costs.

## STATE OFFICERS, SUPREME AND COURTS OF APPEALS JUDGES.

SECTION 5129. The supreme court shall have exclusive jurisdiction of the contest of elections of state officers, chief justice of the supreme court, supreme court judges and of judges of the court of appeals. If either party to the contest is chief justice or a member of the supreme court, he shall not sit in the determination of his contest, nor in the making of any order preliminary or incident thereto, nor shall he sit in the determination of the contest nor upon any question preliminary or incident thereto of the election of any candidate voted for at the same election in which he was a candidate for the office of chief justice or judge of the supreme court which is being contested, if his election is also contested. (103 v. 423.)

Contest of election of state officers and supreme and court of appeals judges.

SECTION 5130. Any elector having a right to vote for any candidate for state officer, chief justice or judge of the supreme court or judge of the court of appeals, by taking an appeal from the finding and decision of the canvassing board which finds and declares the result of the election of such state officer or judge, to the supreme court of the state, may contest the election of such state officer or judge. (103 v. 423.)

Who may contest such election.

SECTION 5131. Such appeal shall be taken and filed in the supreme court within ten days from the declaration of the result of the decision by the proper canvassing board, and the appeal shall be in the form of a relation addressed to the court, in which shall be set forth in brief and plain terms that such appeal is taken, by whom, and upon what to the answer of the contestee. (89 v. 364 § 8.)

Mode of procedure.

SECTION 5132. Notice of such appeal together with a copy of the relation shall be served upon the contestee in the same manner as a summons in a civil action, within five days from the time of filing the appeal. The contestee shall have fourteen days from the time service has been made upon him in which to answer the relation, and the contestor shall have seven days thereafter in which to reply to the answer of the contestee. (89 v. § 8.)

Notice; answer and reply.

SECTION 5133. Upon notice to the opposite party, the court or a judge thereof may for a good reason extend the time for either answer or reply. Testimony may be taken by either party as in civil actions at any time after copy of relation has been served upon the contestee. Any notary public may take such testimony in any county in the state, without reference to the county in which he resides. If

Extension of time; testimony.

taken in short-hand, the signature of the witnesses shall not be necessary to depositions so taken, if such depositions have been read over to the witness and approved and the facts are certified by the notary. (89 v. 3665 § 9.)

Taking and  
filing testi-  
mony.

SECTION 5134. In contests of election in the supreme court, all testimony shall be in the form of depositions. The contestor shall take and file his testimony within thirty days from the time his reply should be filed, unless upon notice of the contestee further time is given by the court or a judge thereof. The contestee shall file his testimony within thirty days from the expiration of the contestor's time, unless upon notice to the contestor further time is granted by the court or a judge thereof. (89 v. 365 § 10.)

Hearing and  
judgment.

SECTION 5135. The court shall hear and determine such contest in a summary manner, and, if practicable, before the term of office in question shall begin, and to that end the court shall make any and all proper orders as to time and manner of procedure. It shall have full power to render such judgments and make such orders as the laws and the facts may warrant, including judgments of ouster and induction. (89 v. 365 § 11.)

Bond and  
costs.

SECTION 5136. If the contesting elector be not the claimant of the office, he shall at the time of filing his appeal file a bond with surety approved by the clerk, conditioned that he will pay all costs that may be adjudged against him therein. Upon final hearing, the court shall adjudge the costs of the case as it deems just and equitable, and in such adjudication it may find what part, if any, thereof should be paid from the state treasury. (89 v. 365 § 12.)

#### JUDGES OF COMMON PLEAS AND SUPERIOR COURTS.

Contest of  
election of  
common pleas  
and superior  
court judges.

SECTION 5137. The court of appeals shall have exclusive original jurisdiction of the contest of election of common pleas and superior court judges. The contest shall be had in the county in which the contestee resides. Any elector of the city, county, or subdivision may contest the election of any such judge by taking an appeal from the finding and decision of the canvassing board which finds and declares the result of the election of such judge to the court of appeals of the county in which the contestee resides. (103 v. 423.)

How appeal  
shall be  
taken.

SECTION 5138. Such appeal shall be taken and filed in the court of appeals within ten days from the declaration of the results by the canvassing board. The appeal shall be in the form of petition, addressed to the court, in which shall be set forth in brief and plain terms that such appeal is taken, by whom and upon what grounds the election is contested. Notice of the appeal, together with a copy of the petition, shall be served upon the contestee in the same manner that summons in civil action may be served, within five days from the time of filing the appeal. (103 v. 423.)

SECTION 5139. The contestee shall have fourteen days from the time service has been made upon him to file his answer and the contestor shall have five days thereafter to reply. The contest shall be confined to the matters alleged in the pleading. (89 v. 363 § 1.)

Time for answer and reply.

SECTION 5140. Testimony may be taken by either contestor or contestee, as in civil action, at any time after service has been made upon the contestee. Any notary public may take such testimony in any county of the state without reference to the county in which he resides. If taken in shorthand, the signature of the witnesses shall not be necessary to depositions so taken, if such depositions have been read over to the witness and approved and such fact is certified by the notary. (89 v. 363 § 2.)

Testimony.

SECTION 5141. The contestor shall take and file all his testimony by deposition within twenty days from the time that his reply to the answer should be filed, unless, upon notice to the contestee, further time is given by the court of appeals, or a judge thereof. The contestee shall take and file all his testimony by deposition within twenty days from the expiration of the contestor's time, unless, upon notice to the contestor, further time is granted by the court or a judge thereof. Witnesses may be compelled to attend and be examined orally in open court, as in civil cases. (103 v. 423.)

Taking and filing testimony.

SECTION 5142. As soon as the contestor has filed his petition, the clerk shall notify the presiding judge thereof. If necessary, the judges shall provide for a special term in such county to hear and determine such contest in a summary manner, and if practicable, before the term of the office in question shall begin, and cause the clerk to notify the parties of any order of the court. (89 v. 363 § 3.)

Proceedings upon filing of petition.

SECTION 5143. The court shall hear and determine the contest without the intervention of a jury. In the conduct of the case, exceptions may be taken by either party as in civil actions, and the supreme court shall in a summary manner hear and determine all errors alleged by either party, to be presented by petition in error as in civil actions. The court of appeals and supreme court may render such judgments and make such orders as the law and the facts warrant, including judgment of ouster and induction, and the judgment of the supreme court shall be decisive of the contest. (103 v. 423.)

Hearing of contest; petition in error.

SECTION 5144. If the contesting elector is not a claimant for the office, he shall at the time of filing his appeal also file a bond, with sureties to be approved by the clerk, conditional that he will pay all costs that may be finally adjudged against him therein. Upon the final hearing, the court shall adjudge the costs of the case as to it seems just and equitable, and in such adjudication it shall find what part, if any thereof should be paid from the state treasury. (89 v. 364 § 5.)

Bond and costs.

Limitation for  
filing petitions  
in error.

SECTION 5145. After the expiration of twenty days from the rendition and entry on the journal of the final judgment of the court of appeals neither party shall have the right to file a petition in error in the supreme court for review of the court of appeals. (103 v. 424.)

#### MEMBERS OF THE GENERAL ASSEMBLY.

Contest of  
election of  
members of  
general as-  
sembly.

SECTION 5146. The right of a person declared duly elected to the office of senator or representative in the general assembly may be contested by any elector of the district or county by appeal to that branch of the general assembly to which such person is declared elected. Such elector shall serve like notice in the manner and within the time prescribed in case of contests of the election of county officers. (R. S. Sec. 3003.)

Mode of  
procedure.

SECTION 5147. The provisions herein contained relating to the taking of testimony in cases of contest of elections of county officers, shall apply to such contest, except that all testimony taken and all matters relating to the contest shall be sent to that branch of the general assembly to which the contestee was declared elected and be filed with the clerk thereof on or before the tenth day of the first session of the general assembly after the election. (R. S. Sec. 3004.)

#### COUNTY OFFICERS.

Contest of  
election of  
county offi-  
cers.

SECTION 5148. The right of a person declared duly elected to any county office or to the office of probate judge may be contested by any elector of the county by appeal to the court of common pleas of the county. (R. S. Sec. 2997.)

NOTE:—In an election contest or an appeal in the court of common pleas questions of law arising upon evidence brought on the record by a bill of exceptions, are subject to review on error without a motion for a new trial having been made and overruled.

Phelps v. Schroder, 26 O. S. 549.

In an action to contest an election where the election officers are *functus officio*, the fact that none of the ballots in dispute were counted by the election officers may be established by parol evidence.

Williams v. Barker, 17 N. P. 679, (B. Aug. 5, 1907).

In a contested election case, where the term of office has begun before the case is brought to trial, a finding in favor of the contestant should be accompanied by a judgment of ouster and of induction of the contestant into office.—*Ibid.*

Notice of  
appeal.

SECTION 5149. The contestor shall file a notice of such appeal with the clerk of such court and give notice thereof in writing to the contestee, or leave such notice at the house where he last resided, on or before the thirtieth day after the day of election. The notice shall state the grounds of contest and the names of two justices of the peace before whom depositions will be taken, and the place, and a time, not less than ten days nor more than

twenty days from the day of service thereof, where and when such justices will attend and take the depositions. (R. S. Sec. 2997.)

SECTION 5150. Such justices, or either of them, or officers, before whom depositions are taken in the case, shall issue subpœnas for all persons whose testimony may be required by either party, and subpœnas duces tecum for the production of the books, papers, ballots or things relating to such election, and they may compel the attendance of witnesses and the production of everything named in the subpœnas. (R. S. Sec. 2998.)

Who may take testimony.

SECTION 5151. The justices shall not receive testimony upon any point not named in the notice. When met, they shall hear the testimony and certify it under seal, including a copy of the notice, which shall be delivered to them by the contestor for that purpose, which testimony and copy shall be transmitted by them to the court of common pleas of the county not less than thirty days after the day fixed in the notice to begin the taking of testimony. The contest shall be heard and determined by the court, if then in session, and if not then in session, at the first term thereof thereafter. (R. S. Sec. 2000.)

Testimony must be transmitted to court.

SECTION 5152. On the trial, either party may introduce oral testimony or depositions of witnesses taken as provided in civil actions. When any omission, defect or error occurs in the proceedings of an officer in declaring or certifying that a person was duly elected to an office, it may be corrected by oral or other testimony, offered at the hearing of any preliminary proceeding or at the trial. (R. S. Sec. 3001.)

What is competent; how errors cured.

SECTION 5153. Upon motion of either party, the court shall at once take up and determine any pending matter relating to the contest, otherwise the case shall be heard in its regular order upon the docket. The court shall render judgment against the party failing in the case for all the costs of the contest, including the costs of depositions. (R. S. Sec. 3002.)

When case heard; costs.

#### COUNTY SEAT.

SECTION 5154. Any elector of a county in which a law for the removal of the county seat thereof has been submitted to the electors thereof for adoption, may contest the validity of the vote given at such election upon such question. (R. S. Sec. 3015.)

Contest of election as to county seat.

SECTION 5155. Within twenty days after the day of such election, the elector so contesting shall file in the office of the probate judge of the county notice of his intention to contest the validity of the vote. Within the same time, he shall also file in such office a bond to the state, approved by the probate judge, or in his absence or disability or refusal to act, by the clerk of the court of common pleas of the county, conditioned for the payment of all costs that accrue upon the contest in the event the result of the vote

Notice and bond of contestor.

upon such question, as certified and made known, is not invalidated by and upon the contest. Under the notice so filed, any other elector may file in such office within such time a like undertaking, to be in like manner approved, and proceed with such contest in accordance with these provisions, in the event the party filing the notice fails to prosecute the contest at any time during the proceedings. (R. S. Sec. 3016.)

Publication of notice and appointment of commissioner.

SECTION 5156. Upon the filing in the office of the notice or undertaking, the probate judge or clerk shall publish in a newspaper of general circulation in the county the fact of the filing of the notice and undertaking, and, without delay, shall forward to the governor duly certified copies of the notice and undertaking. On receipt of the copies, the governor shall, without delay, appoint a competent disinterested person to serve as commissioner and perform the duties herein prescribed in the matter of the contest. In case of the death or disability of the commissioner, the governor may fill the vacancy. (R. S. Sec. 3017.)

Duties of commissioner.

SECTION 5157. The commissioner shall be sworn faithfully to discharge the duties required of him. Within ten days after being notified of his appointment he shall go to the office of the probate judge of the county and, having notified the contestors verbally or otherwise of his presence, he shall proceed at such office and at such other places in the county as he finds convenient to examine all witnesses produced or brought before him and take their testimony in writing as to the validity of the votes cast at such election upon such question and as to the validity of the result thereof. He may take or cause to be taken in writing the depositions of persons as he deems material in the determination of the contest at any place out of the county in such manner and before such authority as he prescribes. For these purposes, he may administer oaths to witnesses, issue processes of subpoena and attachments to compel the attendance of witnesses and punish for contempts as may be done by officers authorized to take depositions in civil actions. (R. S. Sec. 3018.)

Powers of commissioner.

SECTION 5158. In executing his duties, the commissioner shall hold open sessions, he may preserve order while in the execution of his commission and punish contempts in the same manner as courts of justice are by law authorized to do while in session. He may command the services of the sheriff and other ministerial officers of the county and employ the assistance of such clerks as are necessary to reduce to writing, evidence taken under his supervision. (R. S. Sec. 3018.)

When testimony shall close; filing in court.

SECTION 5159. The commissioner shall finish taking testimony within forty days after he reaches the office of the probate judge. The evidence taken before him or by his direction shall be properly certified, sealed and endorsed by him, indicating that the package contains evi-

dence taken upon the contest and filed in the office of the clerk of the court of common pleas of the county. Upon being so filed, the clerk shall enter the case upon the appearance and trial dockets of the court in its proper order with other cases. The court or a judge thereof for the subdivision in which the county is situated, at the next regular term thereof or at an earlier time, shall cause the package to be opened, preserved and kept in such office for the use and inspection of the parties to the contest and their counsel. (R. S. Sec. 3019.)

SECTION 5160. At the next term of the court or at an earlier day, if so ordered by the judge, the matter of the contest shall be brought to final hearing upon the law applicable to the case, and the evidence taken and filed as herein provided. No part of the evidence shall be rejected by reason of any mere technical objection to its form or the manner of taking or certifying it. If, upon the hearing, the court or judge finds that illegal votes were cast at the election upon such question by reason whereof or for any other reason found by the court or judge, the result of the election or vote so returned and certified is contrary to what it would have been but for such illegal votes or other reason, the court or judge shall enter and certify such finding on the records of the court. Upon the hearing, if the court or judge finds that the result of the election or vote would not, by reason of illegal votes or other cause have been contrary to the return thereof, as certified, the court or judge shall certify and enter such finding on the record of the court. If, upon the finding, it appears that a majority of the electors voting at such election voted in favor of adopting the law, it shall be taken and held to be adopted. (R. S. Sec. 3020.)

Hearing in  
court of  
common  
pleas;  
judgment.

SECTION 5161. For sufficient cause, the court or judge may continue the hearing of the contest from time to time until it can be finally disposed of. If the result of the election is not changed by the final order or certificate of the court, the costs and expenses of the contest, which shall be taxed by the clerk, subject to the order of the court, shall be adjudged against the contestors. If the result of the election is changed by the final order or certificate, the costs or expenses shall be paid from the treasury of the county from any money not otherwise appropriated. The commissioner shall be allowed for his services, to be taxed as costs, five dollars for each day of time he has been employed, and each clerk shall be allowed two dollars for each day employed in writing testimony. (R. S. Sec. 3021.)

Continuance;  
costs.

#### JUSTICES OF THE PEACE.

SECTION 5162. Within ten days after the day of the election, any candidate or elector of the township may contest the election of a justice of the peace. Such candidate or elector must notify the probate judge of the county of such intention, specifying the points on which the

Contest of  
election of  
justice of the  
peace.

contest shall be based. The probate judge shall give notice thereof to the person whose election is contested, stating the name of the contestor, the points on which he relies, and citing him or them to appear at his office on a day not more than fifteen days from the day of the election, but allowing such person five days' notice of the contest. (R. S. Sec. 572.)

How contest shall be tried.

SECTION 5163. On the same day that he issues the notice to the person whose election is contested the probate judge shall issue summons to three freeholders of the county, not resident in such township, to appear on a day specified therein and try the contest. The summons shall be directed to the sheriff or a constable of the county and shall be served at least three days before the time appointed for the trial, and return thereof made at the time and place of the trial. (R. S. Sec. 573.)

Witnesses.

SECTION 5164. On request of the contestor or the person whose election is contested, the probate judge may issue subpoenas for witnesses directed to the sheriff or a constable of the county who shall serve and make return thereof to the judge at the time and place therein named. (R. S. Sec. 574.)

Trial of contest.

SECTION 5165. The jury of freeholders shall be sworn to try the contest on the evidence. No evidence shall be admitted which does not relate to the points set forth in the notice. When the trial is closed, the freeholders shall sign their decision, which shall be attested by the probate judge. If, by the decision, a vacancy exists in the office of justice of the peace, within three days thereafter, the judge shall transmit a copy thereof to the trustees of the township or, if there are no trustees, to the clerk thereof. If by the decision the election is valid, he shall so certify to the proper officers, and the provisions of law thereafter applicable shall be complied with. (R. S. Sec. 575.)

What votes shall be thrown out.

SECTION 5166. No election of a justice of the peace shall be set aside because illegal votes were cast at the election, if it appears that the person whose election is contested has the greatest number of legal votes given at such election. (R. S. Sec. 576.)

NOTE:—The nominees for the office of justice of the peace of a township containing more than one precinct, receiving the highest number of votes of such township are entitled to the certificates of election, without regard to the precinct in which they reside.

Talesmen; justice to preside in absence of judge.

SECTION 5167. If a freeholder summoned fails to attend at the time and place of trial, the judge shall appoint another freeholder in his place. If the judge fails to attend the trial, any disinterested justice of the peace of the county may perform the duties required of such probate judge. (R. S. Sec. 577.)

SECTION 5168. If the contestor fails to set aside such election, the judge shall render judgment against him for the costs, from which judgment there shall be no appeal, and issue execution therefor to the sheriff, or a constable of the county. If the election is set aside, the costs shall be paid by the township in which it was held. The judge shall make out and certify a bill of such costs and forward it to the trustees of the township who shall issue their orders on the township treasury for its payment. The probate judge and each freeholder shall receive for each day one dollar, and the witnesses, sheriff, or constable the same fees as in other cases. (R. S. Sec. 578.)

Costs, how paid.

#### MUNICIPAL OFFICERS.

SECTION 5169. The election of any municipal officer, except a member of the council, may be contested in the manner hereinbefore provided for contesting the election of justices of the peace, but in cities the election of any such municipal officer may be contested only in the manner provided for the contest of election of county officers. (R. S. Sec. 1731.)

Contest of election of municipal officers.

NOTE:—In a proceeding to contest the election of a township trustee held under the Australian ballot law, rejection and destruction of the ballots by the judges of election is not final or conclusive, but the contents of the ballots thus rejected and destroyed may be shown by parol.

In the absence of any statutory provision for the contest of election of township officers *quo warranto* is the proper remedy for determining the legality of an election of township trustee.

A statute will not be construed as abridging or repealing the right to contest an election for fraud or mistake unless such intention is clearly expressed.

State ex rel v. Couser 566 (N. S.) 119.

SECTION 5169-1. Any qualified elector may contest an election, or demand a recount of ballots on questions submitted to the voters of the state under a state referendum, as hereinafter provided. Such elector having a right to vote on the question submitted and having voted may file a petition setting forth the grounds of contest with the clerk of the common pleas court of Franklin county not more than fifteen days after the official canvass and announcement of such vote for the state by the state canvassing board. The contestant may file with the clerk of such court and secretary of state a notice of his intention to contest the election before the announcement of the official count by the state canvassing board, and the secretary of state shall forthwith notify all the deputy state supervisors of elections or deputy state supervisors and inspectors of elections in the counties involved in such contest to hold the ballots cast at such election, on such question or questions subject to the order of such court. Such notice shall be served by the secretary of state by mailing a true and certified copy of such notice of contest and order to hold such ballots subject to the order of the court, by registered mail, to the clerk

Contest of elections under state referendum; time and place of filing petition.

Notice of contest; where filed.

Ballots to be held subject to the order of court.

of the board of deputy state supervisors of elections, or deputy state supervisors and inspectors of elections, in such county or counties, and such clerk is required to acknowledge receipt thereof on receiving the same. (106 v. 17.)

Chief justice shall name judge to hear contest; where hearings shall be held.

SECTION 5169-2. Upon the filing of the copy of such notice of such contest, the chief justice of the supreme court shall within five days name a common pleas judge to hear and determine such contest. A certified copy of the notice of such contest shall be sent by the clerk of the court to such judge named by the chief justice. Such judge shall within five days after the filing of the petition setting forth the grounds of contest determine whether there are sufficient grounds to justify such contest, fix the bond for court costs and the date for such hearing. All of the hearings relating to such contest shall be held in the court house of Franklin county, Ohio. (106 v. 18.)

Procedure when contest involves counting of ballots.

SECTION 5169-3. If such contest involves the counting of the ballots upon any state referendum in any or all precincts, wards or townships of the state the procedure shall be as follows:

Appeal.

a. Any qualified elector of the state shall be entitled to an appeal from the finding and decision of the deputy state supervisors of elections of any county or canvassing board which finds and declares the result of the election.

How appeal shall be taken.

b. Such appeal shall be taken and filed with the clerk of the common pleas court of Franklin county not later than fifteen days from the declaration of the result of the decision by the canvassing board, and the appeal shall be in the form of a relation addressed to the court, in which shall be set forth in brief and plain terms the reasons thereof; that the contestant believes that there is irregularity or error in the count, or that a mistake or fraud was committed by the election judges and clerks of said election; and that such error, mistake, irregularity or fraud changed the result of the election. The contestant shall also state which side of the state referendum he represents. (106 v. 18.)

Appointment of two master commissioners to help make recount; compensation.

c. Upon the giving of such bond herein provided and after a prima facie case of fraud, mistake or error is shown by affidavit or otherwise the court shall immediately order the ballots of the precincts, wards, or townships in which the recount is demanded, to be sent to the court in Columbus, Ohio, by such manner as such court may designate, and said court may appoint two master commissioners to help make said recount. The attorneys representing the contestant and the attorney general representing the contestee may be present at all hearings on such recount. Such commissioners shall receive three dollars each per day, and their actual traveling expenses when approved by the presiding judge of said court.

Inspectors to witness recount.

d. The contestant and contestee shall each be entitled to appoint one inspector who shall be allowed to witness the recount.

e. The result of the recount of ballots shall be reported to the court together with all the disputed ballots and any ballots not counted for any reason, within three days after the same shall have been completed. The court after inspecting and passing on such disputed and uncounted ballots shall add such thereof as shall be found to be legal, to the number of legal ballots determined by the recount. In passing on such disputed, uncounted, or any other ballots cast, if it be shown to the satisfaction of the court that such ballots were procured by fraud, duress, bribery, intimidation, or for money or other valuable consideration, such ballot or ballots shall be rejected as illegal and void.

Report of recount and passing of court upon disputed and uncounted ballots.

f. If the recount, as finally approved by the court, shows a difference from the result of the count by the election judges and clerks of said precincts, wards or townships, the court shall make and enter a finding setting out whether or not such difference, error or mistake, was willful, or the result of fraud or any gross negligence on the part of said judges or clerks, or either of them. If the court find that such difference, error or mistake was the result of fraud, gross negligence or willfulness on the part of any judge or judges, or clerk or clerks, or other person or persons, said court shall, after reasonable notice to such judge, clerk or other person or persons, and after affording him or them an opportunity to be heard, adjudge the costs of such recount against such judge, clerk or other person or persons, and he or they shall not be entitled to any exemption against such judgment. The court may, at its discretion, include in said judgment in addition to the costs aforesaid, a penalty in any sum not to exceed \$500, which penalty, when collected, shall be paid into the common school fund of the state of Ohio.

Finding of the court; costs of recount; penalty.

g. Any person who tampers with, or changes the ballots, or opens the receptacles in which the ballots are contained without the order of the court, shall be fined not less than \$500, nor more than \$1,000, and be imprisoned in the county jail not less than six months nor more than one year. (106 v. 19.)

Tampering with or changing ballots; penalty.

SECTION 5169-4. Whenever any question is submitted to the voters in a subdivision of the state either in a county or municipality, or township, the contest shall be filed in the common pleas court of the county and the notice of contest and other papers shall be filed with the clerk of the court of common pleas. Such clerk shall perform the duties imposed upon the secretary of state, and such common pleas court shall perform the duties imposed upon the court hearing the contest as set forth herein, and the ballots shall be ordered sent to the court at the county seat of the county in which the contest is filed. In all other respects the provisions of this act relating to honest elections in a state referendum shall apply to a referendum in a county or sub-division thereof. (106 v. 20.)

Contests in subdivisions; where notice and other papers shall be filed.

When precinct ballots shall be void on account of error, fraud, etc.

SECTION 5169-5. If, in any of the precincts the error or fraud, or other irregularity is such as to make it impossible to ascertain the correct result, the ballots from such precinct shall be thrown out and considered void.

Precinct vote shall not be counted when bribery, etc., is proven.

SECTION 5169-6. The vote from any precinct shall not be counted when it is proven by the contestants that there was bribery or intimidation of the electors in such precinct and the court finds that the contestants were in the minority in such precinct and were not in any way implicated in the bribery or fraud complained of. (106 v. 20.)

Procedure in cases of fraud, bribery, etc., not involving recount.

SECTION 5169-7. Whenever there has been fraud, bribery or intimidation of electors, misconduct on the part of election officials or irregularities, or other proper subject-matter for a contest of an election by a state referendum, not involving a recount of the ballots, the procedure shall be the same as in the hearing of a contest for a recount, as hereinbefore set forth, with the exception that the ballots shall not be held more than thirty days, as now provided by law. (106 v. 20.)

Committees shall name two challengers when questions are submitted.

SECTION 5169-8. In all state referendum elections where questions are submitted, the committee representing each side of the question shall have the right to name two challengers to represent their side of the question in the election booth on election day. Such challengers shall be named and appointed by the same method as provided for naming an inspector to the count on questions involving a state referendum, as provided in section 5080-1, 104 session laws, p. 124. Only one challenger at a time for each side shall be allowed to remain in the voting booth. In determining the number of challengers permitted under this section, the limitation provided in section 5080-1 of the General Code shall apply only to the one challenger permitted to be in the voting booth. 106 v. 20.)

How number of challengers determined.

Proclamation and certification of result of the election; preservation of ballots.

SECTION 5169-9. As soon as the ballots are counted, the chairman of the board of elections in each precinct shall in his proclamation of the result of the election publicly proclaim how many ballots were cast that were blank or not marked, and shall also certify to the same in manner as required by law for all other ballots to be certified, and all blank ballots on which no mark is made on any question, or questions submitted, shall be put in a separate envelope properly labeled and placed in the receptacle with the marked ballots to be held for thirty days. (106 v. 21.)

Blank ballots shall be tallied and certified.

SECTION 5169-10. After completing the counting and enumeration of the ballots, and proclaiming and issuing the result, as heretofore directed by law, the number of blank ballots cast upon any question or office shall be set down in the tally sheets and poll books and certified in the same manner as required by law for any other ballot or ballots cast. (106 v. 21.)

SECTION 5169-11. Whoever violates any of the provisions of sections 9 or 10 of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$100 nor more than \$500, and upon conviction shall forfeit such office. (106 v. 21.)

Failure of election officials to perform duty, a misdemeanor.

SECTION 5169-12. Whoever being judge or clerk of election in any ward, township or precinct, or any other person prevents or hinders, or attempts to prevent or hinder, any inspector of the count or any challenger from performing his official duty under the provisions of this act shall be guilty of a misdemeanor. (106 v. 21.)

Attempting to prevent or hinder inspector or challenger in performance of duty.

SECTION 5169-13. Whoever being a judge, clerk, deputy sheriff, special deputy sheriff, or other election officer, while performing the duties of his office wears any badge, sign, or other insignia or thing indicating his preference on the question submitted, or influences or attempts to influence any voter to cast his ballot for or against any question or proposition submitted at such election shall be guilty of a misdemeanor. (106 v. 21.)

Wearing of badge, sign, etc., indicating preference, by election officials, prohibited.

SECTION 5169-14. Whoever being a judge or clerk of election in any ward, precinct or township, fails to give to any elector any ballot which such elector is entitled to have and vote, or deposits in the ballot box any ballot other than the one handed to him by the voter entitled to vote the same, or counts any ballots for or against any question or proposition other than as it is voted, or so counts any blank ballot, shall be guilty of a misdemeanor. (106 v. 21.)

Judges and clerks, offenses of relating to ballots.

SECTION 5169-15. Whenever the committee provided by law for naming inspectors and challengers in any county files with the sheriff of the county at least five days before the election a signed statement that they have good reasons to believe that there will be bribery of electors or violation of election laws in certain precincts, wards or townships, of the county, at the next election, such sheriff shall appoint the persons named by such committee as special deputy sheriffs to prevent such violation of the law, but he shall not be liable on his bond for the acts of such special deputies. The sheriff shall name the persons certified to him by said committee, and such deputies shall have the same authority to make arrests and serve process as the sheriff or other public officer. Such deputies shall have the same authority as judges of elections have, as provided for in section 4890 of the General Code, to call to their aid any officer of the peace or elector to aid them in enforcing the law. Each deputy shall give a bond in the sum of \$1,000 payable to the state of Ohio that he will faithfully perform the duties placed upon him to enforce the law, for an honest election. The compensation for such officers shall be paid by the committee naming them, and not more than one such officer shall be named for any one precinct by any committee. (106 v. 21.)

Appointment of special deputies by sheriff, upon statement and certification of committees.

Authority of deputies.

Violation,  
prima facie  
case of fraud.

SECTION 5169-16. A violation of any of the provisions of this act shall constitute a prima facie case of fraud within the purview of this act. (106 v. 22.)

Penalty; fined  
and disquali-  
fied as an  
election official  
thereafter.

SECTION 5169-17. Any person convicted of a misdemeanor under sections 12, 13 or 14 of this act shall be fined not less than \$100, nor more than \$500, and shall, at the discretion of the court, be disqualified to hold any office in connection with any election held thereafter in the state of Ohio. (106 v. 22.)

## CHAPTER 12.

### MEETING OF PRESIDENTIAL ELECTORS.

SECTION

- 5170. Meeting of presidential electors.
- 5171. Electors shall give notice to governor of their presence.
- 5172. How vacancies in the office of elector filled.

SECTION

- 5173. Tie votes determined by the governor by lot.
- 5174. Electors shall be notified by the governor.
- 5175. Compensation of electors and how paid.

SECTION 5170. At twelve o'clock on the day appointed by the congress of the United States, the electors of president and vice president of the United States, shall meet at the state house in Columbus, and then and there perform the duties enjoined upon them by the constitution and the laws of the United States. (R. S. Sec. 2971.)

Meeting of presidential electors.

SECTION 5171. Before the hour of twelve o'clock on the day next preceding the day fixed by the law of congress to elect a president and vice-president of the United States, each elector of president and vice-president shall give notice to the governor that he is present, and ready at the proper time to perform the duties of an elector. Thereupon the governor shall deliver to each such elector a certificate of the names of all the electors. (R. S. Sec. 2972.)

Electors shall give notice to governor of their presence.

SECTION 5172. If any of the electors are absent, and fail to appear before nine o'clock on the morning of the day appointed for the election, the electors then present shall immediately proceed to elect by ballot in the presence of the governor, persons to fill the vacancies occurring through such non-attendance. (R. S. Sec. 2973.)

How vacancies in the office of elector filled.

SECTION 5173. If two or more persons receive an equal and the greatest number of votes at such election, the governor, in the presence of the electors attending shall determine by lot which of such persons is duly elected, otherwise he or they having the greatest number of votes shall be considered elected to such vacancies. (R. S. Sec. 2974.)

Tie votes determined by the governor by lot.

SECTION 5174. The electors making such choice shall forthwith certify to the governor the names of the persons so chosen, and the governor shall cause immediate notice in writing to be given to each of them. The persons so chosen and notified and not the persons in whose place they have been chosen, shall be electors, and shall meet the other electors at the time and place appointed, and then and there discharge all the duties enjoined on them as electors by the constitution and laws of the United States and of this state. (R. S. Sec. 2975.)

Electors shall be notified by the governor.

SECTION 5175. Each elector shall receive three dollars for each day's attendance at Columbus as such, and mileage at the rate of ten cents per mile for the estimated distance by the usual route, from his place of residence to Columbus. Such compensation and mileage shall be paid by the state. (R. S. Sec. 2976.)

Compensation of electors and how paid.

# SPECIAL ELECTIONS

## AND

## SUBMISSION OF QUESTIONS

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### GENERAL PROVISIONS.

#### PUBLICITY PAMPHLETS RELATIVE TO INITIATIVE AND REFERENDUM.

##### SECTION

- 5018-1. Title and text of each proposed law or amendment shall be printed in pamphlet; explanation.
- 5018-2. Five may be named in petition to prepare explanation.
- 5018-3. When president of senate and speaker of house may name committee to prepare explanation.
- 5018-4. Cost of distribution of pamphlets; how paid.
- 5018-5. Mailing copy of pamphlet to each voter in state; mailing list.
- 5018-6. When additional copy may be incorporated in pamphlet.
- 5018-7. Duties of mayors and clerks of municipal corporations, clerk deputy state supervisors in counties.
- 5018-8. To what political subdivisions act applies.
- 5018-9. When explanations upon municipal and county measures shall be filed.

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- 1261-39. Limitation as to number of saloons; petition for submission of question of further limitation; notice of election; form of ballot; regulations as to petitions for limitation; contests; hearing; number of licenses that shall be granted.

#### RELEASE OF TREASURERS AND SURETIES.

- 2303. Treasurers and sureties may be released.
- 2304. What finding necessary.
- 2305. Appeal from finding.
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- 2308. Electors may demand submission.
- 2309. Notice of election shall be given.
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#### GREATER TAX RATE.

- 5649-5. Proceedings when maximum rate insufficient.
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#### EXPERIMENT FARMS.

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- 1176. Petition for submission of question; notice.
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##### SECTION

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- 1604-2. How petition shall be signed; verification; objections.
- 1604-3. Conduct of election; form of ballot; returns and canvass.
- 1604-4. Establishment of probate division; error and appeals.
- 1604-5. Petition for re-establishment.
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- 5638. Powers of county commissioners limited.
- 5639-1. Submission of question to vote after passage of resolution; how election conducted.
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- 2377. Duties of judges of elections.
- 2378. Poll books in precincts of old county.
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- 2380. Vote, challenge and oath of electors.
- 2381. Returns, how made.
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- 2975-5. Resolution; procedure in submission of question.

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- 1558-1. The municipal court of Cincinnati.  
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## MUNICIPAL COURT OF COLUMBUS.

- 1558-46. The municipal court of Columbus.  
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## MUNICIPAL COURT OF CLEVELAND.

- 1579-2. Judges and qualifications.  
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## MUNICIPAL COURT OF DAYTON.

- 1579-46. The municipal court of Dayton.  
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## GENERAL PROVISIONS.

## PUBLICITY PAMPHLETS RELATIVE TO INITIATIVE AND REFERENDUM.

SECTION 5018-1. The secretary of state, at least thirty days before any election at which any proposed amendment to the constitution or proposed law is to be submitted to the people, shall cause to be printed in pamphlet form a copy of the title and text of each measure to be submitted, with the form in which the ballot title thereof will be printed on the official ballot. Such pamphlet shall also contain an explanation of any proposed measure, not exceeding a total of three hundred words for each, to be filed as hereinafter provided. (103 v. 831.)

Title and text of each proposed law or amendment shall be printed in pamphlet; explanation.

SECTION 5018-2. Five persons may be named in any petition or supplementary petition to prepare the explanation of the measure to be submitted; which explanation shall be filed with the secretary of state not later than sixty days before the election at which the measure is to be voted upon. (103 v. 831.)

Five may be named in petition to prepare explanation.

SECTION 5018-3. When any valid and sufficient petition or supplementary petition shall have been filed with the secretary of state demanding the submission of any measure to a vote of the people, and the general assembly is in session, the speaker of the house shall name two of its members, and the president of the senate shall name one of its members, which shall constitute a committee to prepare the explanation of the measure on behalf of the general assembly. If the general assembly is not in session then the governor shall name a committee of three electors, which committee shall serve without compensation and which shall prepare and file such explanation with the secretary of state not later than sixty days before the election at which the measure is to be voted upon. (103 v. 831.)

When president of senate and speaker of house may name committee to prepare explanation.

SECTION 5018-4. The posting and other cost of distributing such pamphlets shall be paid by the state. The auditor of the state upon receipt of a voucher signed by the secretary of state shall draw his warrants on the state treasurer for such amount as may be necessary to pay for such printing, postage and cost of distribution at each election, and the same shall be paid from the general fund of the state. (106 v. 832.)

Cost of distribution of pamphlets; how paid.

SECTION 5018-5. The secretary of state shall, at least twenty days before any such election, transmit one copy of such pamphlet to every voter in the state by mail with postage fully prepaid. If the secretary of state shall, at or about the same time be mailing any other pamphlets to voters, he may, if practicable, bind the matter herein provided for and enclose any and all pamphlets under one cover. For the purpose of securing a mailing list of voters outside of cities having a registration of voters, the secretary of state shall prescribe the forms of books to be used by all local

Mailing copy of pamphlet to each voter in state; mailing list.

## PUBLICITY PAMPHLETS RELATIVE TO INITIATIVE AND REFERENDUM.

election officials in keeping a record of the postoffice address of all voters residing outside of such cities. The latest available registration lists shall be used in such cities. (103 v. 832.)

When additional copy may be incorporated in pamphlet.

SECTION 5018-6. When more copy is offered to the secretary of state than herein provided for, the secretary of state shall cause such additional copy to be incorporated in the pamphlet provided for in section 1 of this act, if the parties submitting such additional copy deposit with it a sum of money sufficient to pay for the printing thereof. When any constitutional amendment or other measure has been published in pamphlet form in accordance with the provisions of this act, the same shall be in lieu of any other method of advertising provided by law. (103 v. 832.)

Duties of mayors and clerks of municipal corporations, and clerk of deputy state supervisors in counties.

SECTION 5018-7. In all municipal corporations which have not or may not provide by ordinance or charter for the manner of exercising the initiative and referendum powers reserved by the constitution to the people thereof, as to their municipal legislation, the duties required of the secretary of state by this act, as to state legislation, shall be performed as to such municipal legislation by the clerk of the municipality; the duties required of the governor shall be performed by the mayor or executive body as to such municipal legislation, and in all counties exercising the initiative powers now or hereafter provided by law the duties required of the secretary of state by this act as to state legislation shall be performed as to such county measures by the clerk of the board of deputy state supervisors of elections; the duties required of the governor shall be performed by the prosecuting attorney. (103 v. 832.)

To what political subdivisions act applies.

SECTION 5018-8. The provisions of this act shall apply in every municipality in all matters concerning the operation of the initiative and referendum in its municipal legislation, unless otherwise provided for by the legislative authority of the municipality and shall likewise apply in so far as possible in every county in all matters concerning the operation of the initiative and referendum; provided, that the printing and distribution of the pamphlet of measures and the sample ballot of measures therewith shall not be dispensed with in any municipality or county. The printing and binding of measures in municipal legislation and county matters shall be paid by the municipality or county in like manner as payment is provided for by the state as to state legislation, and said printing shall be done in the same manner that other municipal or county printing is done; distribution of such pamphlets shall be made to every voter in the municipality or county, so far as possible, by the clerk of such municipality or county commissioner, as the case may be, either by mail or carrier, not less than ten days before the election at which the measures are to be voted upon. (103 v. 833.)

LIMITATION AS TO THE NUMBER OF SALOONS.

SECTION 5018-9. Explanations upon municipal or county measures shall be filed with such clerk not less than sixty days before a general election and not less than forty days before a special election at which they are to be voted upon. Arrangements may be entered into between the secretary of state and the proper local officers for the publication in one pamphlet of copy relating to both state and local matters, and where such arrangement is deemed advisable, agreement may be made to pro rate the cost of publication and distribution between the state and the municipality or county. (103 v. 833.)

When explanations upon municipal and county measures shall be filed.

LIMITATION AS TO NUMBER OF SALOONS.

SECTION 1261-39. Not more than one saloon shall be licensed in any township or municipality of less than five hundred population, nor more than one saloon for each five hundred population in other townships and municipalities.

Limitation as to number of saloons.

When in any municipal corporation the qualified electors of such corporation, equal in number to thirty-five per cent of the total of votes cast therein at the last preceding general election for municipal officers, petition the legislative body thereof for an election to determine whether the number of saloon licenses shall be further limited, stating in said petition the number to which said licenses shall be limited, said legislative body shall order a special election, to be held at the usual places for holding elections therein, not less than twenty nor more than thirty days from the filing of said petition.

Petition for submission of question of further limitation.

Thereupon notice shall be given of such election, and it shall be conducted as provided by law for the election of members of the council of such municipal corporation as far as such law is applicable. The result of the election shall forthwith be entered upon the record of the proceedings of the council of the municipal corporation by the clerk thereof.

Notice of election.

The ballots at the said election shall be printed with an affirmative and a negative statement, to-wit: "The number of saloon licenses shall be further limited to . . . . . (here state number) licenses," "The number of saloon licenses shall not be further limited," with a blank space on the left side of each statement in which to give elector an opportunity to clearly designate his choice by a cross mark as follows:

Form of ballot.

(. . . . .) The number of saloon licenses shall be further limited to . . . . . (here state number) licenses.

(. . . . .) The number of saloon licenses shall not be further limited.

If a majority of the votes cast at said election shall be in favor of a further limitation of the number, then, from and after the beginning of the next ensuing license

Regulations as to petitions for limitation.

## LIMITATION AS TO THE NUMBER OF SALOONS.

year, the number of saloon licenses in said municipal corporation shall be limited to the number so voted upon; provided, however, that said election shall not be held unless said petition herein prescribed shall be filed with council before six months prior to the beginning of a license year; provided also that the limitation of number so voted upon shall remain the limitation of number for the next three license years only, at the end of which time the number of licenses shall be determined in the same manner as if no election had been held, unless, prior to six months before the expiration of said three license years, another petition is filed, in all respects in accordance herewith, and after election thereupon as provided herein it is again decided to limit the number for another three year term.

Contests;  
hearing.

Any qualified elector of a municipal corporation wherein such election has been held may contest the validity thereof by filing a petition duly verified with the common pleas court of the county in which such municipal corporation is situated, within ten days after the election, setting forth the grounds for contest. Such court shall require the person contesting the election to furnish sufficient security for costs before such petition is filed.

Any judge of the common pleas court, upon the filing of such petition, shall forthwith cause a summons to be issued, addressed to the mayor of such municipal corporation, notifying him of the filing of the petition and directing him to appear in such court on behalf of the municipal corporation at the time named in the summons, which shall not be more than twenty days after such election nor less than five days after the filing of the petition. The common pleas court shall have final jurisdiction to hear and determine the merits of the proceedings and shall be governed by the law provided for contesting the election of a justice of the peace so far as such law is applicable.

Number of  
licenses that  
shall be  
granted.

The county board shall grant licenses to the full number allowed by the constitution if applications are made therefor, unless limited as herein provided, in which case up to the full number determined upon as herein provided. And any license, though it be temporarily suspended by action of the county board, shall be counted in the number allowed. (103 v. 224.)

## RELEASE OF TREASURERS AND SURETIES.

Treasurers  
and sureties  
may be re-  
leased.

SECTION 2303. When a loss of public funds, entrusted to a county, city, village, township, or school district treasurer, by virtue of his office, heretofore or hereafter results from fire, robbery, burglary, or inability of a bank to refund public money lawfully in its possession belonging to such public funds, the county commissioners, township trustees, a city or village council or a board of education, respectively, may release and discharge such treasurer and the sureties upon his official bond, from all liability to or

## RELEASE OF TREASURERS AND SURETIES.

demands of such county, township, city, village or school district, for loss so created and arising. (99 v. 388 § 1.)

SECTION 2304. Before such release and discharge shall be effected, the board of county commissioners, township trustees, city or village council or board of education shall find that the treasurer was entrusted by law with the care of such public funds, and that the loss thereof was not occasioned by his fault or negligence, and an entry of such findings shall be made upon the record book of the proceedings of such council or board. (99 v. 388 § 1.)

What finding necessary to release.

SECTION 2305. Within five days after such finding of release and discharge is made, a taxpayer of such county, township, municipality or school district, may appeal therefrom to the common pleas court of the county. Until such appeal is finally determined, the finding and other proceedings shall not effect a release and discharge. Notice in writing of intention to appeal shall be filed with the clerk or auditor of the board or council making the findings within five days. Within thirty days after such finding, a transcript thereof and of the other proceedings shall be filed in the common pleas court and docketed as other cases. (99 v. 388 § 1.)

Appeal from finding.

SECTION 2306. The common pleas court shall proceed to try and determine the question whether such public funds were lost by the fault or negligence of the treasurer. If it be found that the funds were so lost, the finding of the board or council ordering the discharge shall be vacated. If it be found that the funds were not so lost, the finding shall remain in full force and the court shall cause its judgment to be certified to the board or council making such finding (99 v. 388 § 1.)

Trial in common pleas court.

SECTION 2307. If the finding of such county commissioners, township trustees, city or village council or board of education, as the case may be, has been made and entered on the record book of its proceedings, such board or council may, at the next ensuing general election to be held in the county, township, city, village or school district, submit to the qualified electors thereof, the question whether such treasurer and the sureties upon his official bond shall be discharged from liability on account of such loss of funds. (99 v. 388 § 1.)

Questions may be submitted to vote.

SECTION 2308. If twenty-five per cent of the qualified electors of such county, township, city, village or school district, petition the council or board thereof for the privilege of determining by ballot whether such treasurer and the sureties on his official bond shall be released and discharged, such council or board shall submit the question to the qualified electors of the county, township, city, village or school district as herein provided. (99 v. 388 § 1.)

Electors may demand submission to vote.

SECTION 2309. The deputy state supervisors of elections of the county, or within which such township, city, village or school district is located, shall cause notice of the submission of such proposition to the electors thereof.

Notice of election shall be given.

## GREATER TAX RATE.

For the release of a county or city treasurer the notice shall be by publication in two newspapers of opposite politics in the county or city, for at least thirty days next prior to the date upon which the election is to be held. For the release of a village or township treasurer, twenty days' notice of the election shall be given by posting notices thereof in five public places within such village or township. For the release of a school treasurer, ten days' notice of such election shall be given by posting notice thereof in five public places in the school district. (98 v. 122 § 2.)

Form of  
ballot.

SECTION 2310. The ballots for such election shall have printed thereon "Discharge of treasurer and sureties—yes." "Discharge of treasurer and sureties—no." Such ballot shall have a place at the left of each proposition for the voter to mark according to law, the proposition he favors. (98 v. 122 § 3.)

Proceedings  
on result of  
election.

SECTION 2311. If a majority of the votes cast upon such proposition at the election are in favor of the discharge of such treasurer and his sureties, the county commissioners, township trustees, city or village council or board of education, as the case may be, shall cause the result of the election to be entered in the record book of its proceedings ordering such election, and thereupon shall release and discharge such treasurer and his sureties on his official bond from all liability on account of such loss. If a majority of the votes cast are against the discharge, the result of the election shall be made in the record book of proceedings of the council or board, and no further action therein shall be taken by such council or board. (98 v. 122 § 4.)

## GREATER TAX RATE.

Proceedings  
when maxi-  
mum rate  
insufficient.

SEC. 5649-5. The county commissioners of any county, the council of any municipal corporation, the trustees of any township, or any board of education may, at any time, by a majority vote of all the members elected or appointed thereto, declare by resolution that the amount of taxes that may be raised by the levy of taxes at the maximum rate authorized by sections 5649-2 and 5649-3 of the General Code as herein enacted within its taxing district, will be insufficient and that it is expedient to levy taxes at a rate, in excess of such rate and cause a copy of such resolution to be certified to the deputy state supervisors of the proper county. Such resolution shall specify the amount of such proposed increase of rate above the maximum rate of taxation and the number of years not exceeding five during which such increased rate may be continued to be levied. (102 v. 272.)

Vote.

SEC. 5649-5a. Such proposition shall be submitted to the electors of such taxing district at the November election that occurs more than twenty days after the adoption of such resolution. The deputy state supervisors shall prepare the ballots and make the necessary arrangements for the submission of such question to the electors of such tax-

## GREATER TAX RATE.

ing district, and the election shall be conducted, canvassed and certified in like manner, except as otherwise provided by law, as regular elections in such taxing district for the election of officers thereof. Twenty days' notice of the election shall be given in one or more newspapers printed in the taxing district once a week for four consecutive weeks prior thereto, stating the amount of the additional rate to be levied, the purpose for which it is to be levied, and the number of years during which such increased rate may be continued to be levied, and the time and place of holding the election. If no newspaper is printed therein, the notice shall be posted in a conspicuous place and published once a week for four consecutive weeks in a newspaper of general circulation in such taxing district.

Notice.

The form of the ballots cast at such election shall be:

Ballot.

"For an additional levy of taxes for the purpose of ..... not exceeding ..... mills, for not to exceed ..... years, Yes."

"For an additional levy of taxes for the purpose of ..... not exceeding ..... mills, for not to exceed ..... years, No." (102 v. 272.)

SEC. 5649-5b. If a majority of the electors voting thereon at such election vote in favor thereof, it shall be lawful to levy taxes within such taxing district at a rate not to exceed such increased rate for and during the period provided for in such resolution, but in no case shall the combined maximum rate for all taxes levied in any year in any county, city, village, school district, or other taxing district, under the provisions of this and the two preceding sections and sections 5649-1, 5649-2 and 5649-3 of the General Code as herein enacted, exceed fifteen mills. (103 v. 57.)

Result.

SEC. 1259-1. Interest and sinking fund levies on account of bonds issued under section 1259 of the General Code after June 1, 1915, in compliance with orders of the state board of health issued and approved prior to June 1, 1915, shall be exempt from all the limitations on tax levies provided by sections 5649-2 and 5649-3a of the General Code. Such levies shall also be exempt from the limitations provided by section 5649-5b of the General Code, if the question of making such additional levy shall be submitted to the electors of the municipality issuing, or proceeding to issue, such bonds in the manner provided in sections 5649-5 and 5649-5a of the General Code, and the same is approved by a majority of the electors voting on such question; and the proper legislative authorities of any such municipal corporation are hereby authorized to submit such question in the manner provided in said sections of the General Code.

Interest and sinking fund levies exempt from limitations.

The number of years for which such levy shall be authorized shall not be required to be printed on the ballot, and the approval of the electors shall constitute sufficient authority for the making of such additional levy annually,

Years for which levy authorized not required on ballot.

during the time for which the bonds are to run, or until the same are redeemed, or the redemption thereof with interest is fully provided for. (106 v. 461.)

## COUNTIES.

### EXPERIMENT FARMS.

County commissioners empowered to establish experiment farm.

SEC. 1174. In order to demonstrate the practical application under local conditions of the results of the investigations of the Ohio agricultural experiment station, and for the purpose of increasing the effectiveness of the agriculture of the various counties of the state, the commissioners of any county in the state are hereby authorized and empowered to establish an experiment farm within such county as hereinafter provided for. (106 v. 123.)

Uses of county experiment farms.

SEC. 1175. The county experiment farms established under this act shall be used for the comparison of varieties and methods of culture of field crops, fruits and garden vegetables; for the exemplification of methods for controlling insect pests, weeds and plant diseases; for experiments in the feeding of domestic animals and in the control of animal diseases; for illustrations of the culture of forest trees and the management of farm woodlots; and for the demonstration of the effects of drainage, crop rotation, manures and fertilizers, or for such part of the above lines of work as it may be practicable to carry on. (106 v. 124.)

Submission of question of establishment of experiment farm; petition.

SEC. 1176. Upon the filing of a petition with the county auditor signed by not less than five per cent of the electors based upon the vote for governor at the last preceding election, residing within the county, the commissioners of such county shall submit to the qualified voters of such county a proposition to establish an experiment farm within such county, and to issue notes or bonds for the purchase and equipment of such farm, such proposition to be voted upon at the next general election following the receipt of the petition by the commissioners. Notice of the intention to submit such proposition shall be published by the county commissioners in two newspapers of opposite politics printed and of general circulation in said county, for at least four weeks prior to the election at which the proposition is to be voted upon, together with a statement of the maximum amount of money which it is proposed to expend in the purchase and equipment of such farm. (106 v. 124.)

Publication of notice.

Request for ballots, form of ballot and certification of result.

SEC. 1177. The county auditor shall file a written request with the board of deputy supervisors of elections asking for the preparation of the necessary ballots, which ballots shall be separate and apart from all other ballots, and which ballots shall have printed thereon "Tax for experiment farm — YES"; "Tax for experiment farm — NO." The result of such election shall be ascertained by the board of deputy supervisors of elections and the result thereof certified to the county auditor. (106 v. 124.)

SEC. 1177-1. If a majority of the electors voting on such proposition in the county are in favor of establishing such experiment farm, then the commissioners of the county shall levy a tax on all the taxable property in such county as listed for taxation on the county duplicate, which levy shall not exceed one-fifth of one mill on the dollar of the taxable property of the county in any one year, nor shall the aggregate of all levies for such purposes exceed two mills on the dollar. (106 v. 124.)

Tax levy;  
maximum  
levy.

### AGRICULTURAL AGENT.

SEC. 9921-5. If the county commissioners of any county shall not make provision for an agricultural agent as authorized in this act, they may be directed and required to make such provision by the qualified electors of the county on a referendum vote. The question of employing such agent shall be submitted, upon the filing of a petition with the county auditor, signed by not less than five per cent of the qualified electors resident in such county. Upon the receipt of such petition it shall be the duty of the board of county commissioners to submit the question at the first general election held after the meeting of the board at which the petitions were presented, or at a special election called for that purpose. The question shall be submitted on a separate ballot printed in the following form: "County agricultural agent, YES;" "County agricultural agent, NO." Ballots shall be deposited in a separate ballot box. They shall be prepared and distributed by the same officers as are required by law to prepare and distribute ballots for county elections, and the canvass and return of the vote shall be the same as is provided by law for the canvass and return of the vote upon county officers. If it shall appear that a majority of the electors voting upon the question are in favor of the employment of a county agricultural agent, then the county commissioners shall proceed at once to make appropriations for the employment of such agent under the provisions of this act.

Electors may  
require com-  
missioners to  
make pro-  
vision for  
agent by ref-  
erendum; sub-  
mission of  
question;  
form of  
ballot.

After having established this county agent work in any county, the county commissioners of such county shall continue to make such annual appropriations for said work as the trustees of the Ohio state university may direct, not exceeding fifteen hundred dollars annually, for a period of five years. (106 v. 358.)

### COMBINING PROBATE AND COMMON PLEAS COURTS.

SECTION 1604-1. Whenever ten percentum of the number of electors voting for governor at the next preceding election in any county having less than sixty thousand population, as determined by the next preceding federal census, shall petition a judge of the court of common pleas of any

Petition for  
submission of  
question of  
combining  
probate and  
common pleas  
courts.

such county not less than ninety days before any general election for county officers, for the submission to the electors of such county the question of combining the probate court with the court of common pleas of such county, such judge shall place upon the journal of said court an order requiring the sheriff to make proclamation that at the next ensuing general election there shall be submitted to the electors of such county the question of combining the probate court with the court of common pleas of such county. The clerk of courts shall, thereupon, make and deliver a certified copy of such order to the sheriff, and the sheriff shall include notice of the submission of such question in his proclamation of election for the next ensuing general election. (103 v. 960.)

How petition shall be signed; verification.

SECTION 1604-2. Each elector joining in a petition for the submission of said question shall sign the same in his own handwriting (unless he cannot write and his signature is made by mark) and shall add thereto the township, precinct or ward of which he is a resident. Such petition need not consist of but one paper, but may consist of as many parts as may be found convenient. One of the signers to each separate paper shall swear before some officer qualified to administer the oath that the petition is bona fide to the best of his knowledge and belief, and such oath shall be a part of or attached to such paper. The judge upon receipt of such petition shall deposit the same with the clerk of courts.

Objections.

No signature shall be taken from or added to such petition after the same has been filed with the judge. When so deposited such petition shall be preserved and be open under proper regulations to public inspection, and if it is in conformity with law, it shall be deemed to be valid, unless objection thereto is duly made in writing by an elector of the county within five days after the filing thereof. Such objections, or any other questions arising in the course of the submission of the question of combining said courts, shall be considered and determined by the judge of the court of common pleas, and his decision shall be final. (103 v. 961.)

Conduct of election; form of ballot.

SECTION 1604-3. The election upon the question of combining said courts shall be conducted in all respects as provided by law for the election of county officers, so far as said law may be applicable.

The board of deputy state supervisors of elections shall provide separate ballots, ballot boxes, tally sheets, blanks, stationery, and all such other supplies as may be necessary in the conduct of such election.

Such ballots shall be printed with the affirmative and negative statement thereon, to-wit:

	The Probate Court and the Court of Common Pleas shall be combined.
	The Probate Court and the Court of Common Pleas shall not be combined.

Returns of said election shall be made and said returns shall be canvassed at the same time and in the same manner as an election for county officers, and the board of said deputy state supervisors of elections shall certify the result of said election to the secretary of state, to the probate judge of said county and to the judge of the court of common pleas, and the same shall be spread upon the journal of the probate court and of the court of common pleas.

Returns and canvass.

If a majority of the votes cast at such an election shall be in favor of combining said courts, such courts shall stand combined and consolidated at the expiration of the term for which the probate judge has been elected in the county wherein such election has been held. (103 v. 961.)

SECTION 1604-4. When the probate court and the court of common pleas have been combined there shall be established in the court of common pleas a probate division and all matters whereof the probate court has jurisdiction by law shall be filed in and separately docketed in said probate division, and the resident judge of the court of common pleas, shall appoint the necessary deputies, clerks and assistants to have charge and perform the work incident to the probate division. The salaries of such deputies, clerks and assistants to be regulated by section 2980-1 of the General Code. Error may be prosecuted or appeals taken from said probate division to the court of appeals in all cases where the same lie to the court of common pleas in counties where such courts have not been combined. (103v. 962.)

Establishment of probate division.

Error and appeals.

SECTION 1604-5. At any time after three years from the date of an election held under the provisions of this act, but not before, another election may be petitioned for and shall be ordered by the judge of the court of common pleas as provided for in this act, either to perfect a combination of said court, or to dissolve said combination and to re-establish the probate court. (103 v. 962.)

Petition for re-establishment.

SECTION 6. Whenever in any county where such courts have been combined a decennial federal census shows that such county has a population of 60,000 or more, and such fact is certified by the secretary of state to said court of common pleas and entered upon its journal, the probate court shall be re-established in such county, and a probate judge shall be elected for the regular term at the next ensuing election in an even numbered year, and the records

Re-establishment on increase of population.

## BUILDING BONDS.

of the probate division of the court of common pleas shall be delivered to such re-established probate court upon the entry into office of an elected probate judge. (103 v. 962.)

## BUILDING BONDS.

Building  
commission.

SECTION 2333. When county commissioners have determined to erect a court house or other county building at a cost to exceed twenty-five thousand dollars, they shall submit the question of issuing bonds of the county therefor to vote of the electors thereof. If determined in the affirmative, within thirty days thereafter, the county commissioners shall apply to the judge of a court of common pleas of the county who shall appoint four suitable and competent freehold electors of the county, who shall in connection with the county commissioners constitute a building commission and serve until its completion. Not more than two of such appointees shall be of the same political party. (98 v.53 § I.) \* \* \* \* \*

Powers of  
county com-  
missioners  
limited.

SECTION 5638. The county commissioners shall not levy a tax, appropriate money or issue bonds for the purpose of building county buildings, purchasing sites therefor, or for land for infirmary purposes, the expenses of which will exceed \$15,000.00, except in case of casualty, and as hereinafter provided; or for building a county bridge, the expense of which will exceed \$18,000.00, except in case of casualty, and as hereinafter provided; or enlarge, repair, improve, or rebuild a public county building, the entire cost of which expenditure will exceed \$10,000.00; without first submitting to the voters of the county, the question as to the policy of making such expenditure. (102 v. 447.)

Submission  
of question  
to vote after  
passage of  
resolution.

SECTION 5639. When the board of county commissioners desires to submit such question to the voters of the county, it shall pass and enter upon its minutes a resolution declaring the necessity of such expenditure, fixing the amount of bonds to be issued, if any, in connection therewith, and fixing the date upon which the question of making any such expenditure shall be so submitted, and shall cause a copy of such resolution to be certified to the deputy state supervisors of elections of the county; and thereupon the deputy state supervisors shall prepare the ballot and make other necessary arrangements for the submission of the question to the voters of the county at the time fixed in such resolution.

How election  
conducted;  
notice by  
publication.

The election shall be held at the regular places for voting in such county and shall be conducted, canvassed, and certified in the same manner, except as otherwise provided by law, as for the election of county officers. The county commissioners shall give fifteen days' notice of the submission of any such question by publication in at least two newspapers of opposite politics having a general circulation

## BUILDING BONDS.

in said county, which notice shall be published once a week for two consecutive weeks, and shall state the amount of such proposed expenditure, the amount of the bonds, if any, to be issued in connection therewith, the purpose for which such expenditure is to be made, and the time of holding such election. (106 v. 16.)

SECTION 5640-1. The ballots provided by the deputy state supervisors shall have printed upon the same the words, "In favor of the expenditure of \$.....for the purpose of ....." and "Against the expenditure of \$..... for the purpose of.....," said blanks to be filled with the amount proposed to be expended and the purpose for which said money is to be expended. If the board of county commissioners desire to submit upon the same ballot more than one question as to the expenditure of money for any of the purposes referred to in section 5638, the same may be done by proper resolution and notice, and by separately stating upon said ballot each proposition, as above provided. (102 v. 448.)

Ballot.

More than one question may be submitted.

SECTION 5641-1. When the result of such election has been ascertained, the deputy state supervisors shall certify the same to the auditor of said county and he shall enter the same upon the records of the board of county commissioners. (102 v. 448.)

Certificate of result.

SECTION 5642-1. If a majority of the votes so cast are against the proposed expenditure the board of county commissioners shall not assess a tax or issue bonds therefor. If a majority of the votes cast are in favor of the proposed expenditure, the board of county commissioners shall proceed to issue bonds in any sum not exceeding the amount stated upon said ballots, the proceeds of which shall be used exclusively for the purpose stated upon said ballot, and said board shall levy such amount of tax as may be necessary to pay the interest accruing on said bonds and to redeem them at maturity. (102 v. 448.)

Bonds to be issued and tax levied.

SECTION 5643. If an important bridge, belonging to or maintained by any county, becomes dangerous to public travel, by decay or otherwise and is condemned for public travel by the commissioners of such county, and the repairs thereof, or the building of a new bridge in place thereof, is deemed, by them, necessary for the public accommodation, the commissioners, without first submitting the question to the voters of the county, may levy a tax for either of such purposes in an amount not to exceed in any one year two-tenths of one mill for every dollar of taxable property upon the tax duplicate of said county. (R. S. Sec. 2825.)

Condemned bridges, tax levy for repair of.

SECTION 5644. If the county commissioners deem it necessary or advisable, they may anticipate the collection of such special tax by borrowing a sum not exceeding the amount so levied, at a rate of interest not exceeding six per cent. per annum, payable semi-annually, and may issue

May anticipate levy and issue bonds.

notes or bonds therefor, payable when said tax is collected, or the commissioners, without such submission of the question, may proceed under the authority conferred by law to borrow such sums of money as is necessary for either of the purposes before mentioned, and issue bonds therefor. For the payment of the principal and interest on such bonds, they shall annually levy a tax as provided by law. (R. S. Sec. 2825.)

## NEW COUNTIES.

Duties of judges of elections.

SECTION 2377. The judges of state and county elections in such new counties, shall be governed in all their duties by the general laws governing elections, so far as they are consistent herewith. (R. S. Sec. 821.)

Poll books in precincts before belonging to old county.

SECTION 2378. The judges and clerks of elections in the several townships or election precincts, composed in whole of territory that originally belonged to any one of the counties out of which such new county is created, shall cause to be kept two separate poll books and tally sheets for senator and representative, in the same manner that the general poll book and tally sheets are required by law to be kept, one of which shall be deposited with the township clerk, and the other shall be certified, sealed up, and directed, in the same manner as required by law for the return of the general poll book, and conveyed within three days next after the election, by one of the judges thereof, to the deputy state supervisors of elections of the county to which the territory before and at the time of the creation of such new county belonged. (R. S. Sec. 822.)

Poll books in precincts of two or more old counties.

SECTION 2379. The judges and clerks of elections of such townships or election precincts as are composed of territory that originally belonged to two or more of the counties out of which such new county is created, shall cause to be kept two separate poll books and tally sheets for senator and representative, for each portion of territory that originally belonged to different counties, in the same manner that the general poll books and tally sheets are required by law to be kept, one of which shall be deposited with the clerk of the township, and the other shall be certified, sealed up, and directed, in the same manner as required by law for the return of the general poll book, and conveyed within three days after the election by one or more of the judges thereof, to the deputy state supervisors of elections of the county to which the territory before and at the time of the creation of such new county belonged. (R. S. Sec. 823.)

Vote, challenge, and oath of electors.

SECTION 2380. The electors residing in any such township or election precinct may vote for senator and representative at the usual place of holding elections in such township or election precinct. Before they receive a ballot for senator and representative, the judges of elections of

## SOLDIERS' MONUMENT.

any such township or election precinct shall put the necessary question to the elector proposing to vote, so as to fix his residence. If the elector is challenged for non-residence in any particular portion of the township or election precinct, the judges shall swear the elector to the facts, in the same manner as for any cause of challenge. (R. S. Sec. 824.)

SECTION 2381. The deputy state supervisors of elections shall receive the returns of the election for senator and representative, and be governed thereby in the same manner as if the law creating such new county had not been passed. In making out the returns of such election, they shall receive and count the vote so returned, and certify accordingly, and in all respects be governed by the general laws in regard thereto, so far as they may be consistent herewith, and as if the votes were polled in their respective counties. The deputy state supervisors of elections shall give a certificate to the returning officer for his fees, the same as for like services, to the auditor of their respective counties, and the auditor shall issue a warrant on the treasurer of the county therefor. (R. S. Sec. 826.)

Returns; how made, counted, and certified.

SECTION 2382. All votes for senator and representatives in any such new county, shall during such decennial period, be on a separate ballot. (R. S. Sec. 827.)

Vote on separate ballot.

SECTION 2383. An officer who neglects or refuses to perform a duty charged under provisions of this chapter relating to funds and representation shall forfeit and pay a sum not exceeding one hundred and fifty dollars, at the discretion of the court. (R. S. Sec. 828.)

Penalty for delinquency of duty.

SECTION 2384. All forfeitures imposed by the preceding section shall be recovered, with costs of suit, in a civil action in the name of the state for the use of the county. (R. S. Sec. 829.)

How fines recovered.

## SOLDIERS' MONUMENT.

SECTION 2451. The commissioners of a county may receive bequests, donations and gifts for the purpose of erecting within such county a monument in memory of those who died or were killed during the war of eighteen hundred and sixty-one. (R. S. Sec. 891.)

May receive bequests for monument.

SECTION 2452. When, in the opinion of the commissioners, the bequests, donations, or gifts received by them are sufficient therefor, they may erect such monument. (R. S. Sec. 892.)

Erection of monument.

SECTION 2453. If a sufficient amount for such purpose is not raised by donations, bequests or gifts, the commissioners may submit to the qualified voters of the county at a general election the question whether a tax not to exceed one-half mill on the dollar shall be levied upon the taxable property of the county for such purpose. Public

When tax may be levied.

notice by advertisement in one or more newspapers of general circulation in the county shall be given at least thirty days previous to such election, specifying the amount to be raised by such levy. If it appears that a majority of all the votes cast were in favor thereof, the commissioners shall proceed without delay to make such levy and erect a monument. (R. S. Sec. 893.)

### CENTENNIALS.

“County centennial celebration” appropriation.

SECTION 2927. The county commissioners may appropriate from the county fund any sum not to exceed twenty-five hundred dollars towards defraying the expense of a county centennial celebration, but the appropriation of any sum exceeding twenty-five hundred dollars and not to exceed fifteen thousand five hundred dollars shall be upon ratification thereof by a majority of votes cast at the November election. At such election the question of such ratification shall be submitted to the proper board or authority in the usual method or form of submitting questions for submission to the voters of a county. The ballot therefor shall contain the following:

“For the county centennial celebration of . . . . . Yes.”

“For the county centennial celebration of . . . . . No.”

At such election each township may select by ballot, in a separate box provided therefor, two managers who shall be those receiving the largest number of votes therefor. (101 v. 288.)

### BOARD OF PARK COMMISSIONERS.

Resolution declaring necessity of expenditure before issuance of bonds.

Procedure in submission of question of bond issue.

SEC. 2976-5. When the board of park commissioners desires to raise money by the issuance of bonds, it shall pass and enter upon its minutes a resolution declaring the necessity of such expenditure and that the same would be conducive to the public health, convenience and welfare and fixing the amount of bonds it desires to be issued, and shall cause a copy of such resolution to be certified to the board of county commissioners of the county; and thereupon the board of county commissioners shall, by ballot, decide whether or not such bond issue shall be submitted to the people. If a majority of the board of county commissioners are in favor of submitting the proposed bond issue for park purposes to the voters of the county, the county commissioners shall take the necessary steps for the submission of said proposed bond issue, as provided in sections 5639-1, 5640-1, 5641-1, 5642-1 of the General Code; provided, however, that no issue of bonds for park purposes shall be made without first submitting the question of such issue to the voters of the county.

### MEMORIAL BUILDINGS.

Board of trustees.

SECTION 3059. When the commissioners of a county by resolution passed by a majority vote certify to the gov-

ernor that in their opinion it is desirable to erect, furnish and maintain a memorial building to commemorate the services of the soldiers, sailors, marines and pioneers of the county and to expend for such purposes an amount to be named by them not to exceed two hundred and fifty thousand dollars in any one instance, the governor shall appoint a board of trustees composed of five citizens of such county, not more than three of whom shall belong to the same political party, to be known as the "Memorial Association of \_\_\_\_\_ county, Ohio." Any member of the board of trustees may be removed by the governor for misconduct in office or neglect of duty. (95 v. 41 §§ 1, 9.)

SECTION 3060. Such trustees shall receive no compensation but shall be entitled to be repaid their necessary expenses from the fund hereinafter provided. Vacancies in the office of trustees shall be filled in the same manner as the original appointment. The trustees shall elect from their number a chairman and secretary, shall hold regular meetings at such times and places as they agree upon and special meetings under such regulations as they prescribe, and cause to be kept a full record of their proceedings. (95 v. 42 § 2.)

Organization,  
vacancies.

SECTION 3061. Immediately upon the appointment and organization of such board of trustees, they shall certify to the deputy state supervisors of elections of the county, the fact of their appointment and organization, and direct the submission to popular vote at the next regular county election of the question of the issue of bonds in the amount so named in the original resolution, and of the erection and maintenance of the memorial building contemplated. Such deputy state supervisors shall submit the question to popular vote at the next regular county election with such forms of ballot as the deputy state supervisors prescribe, and shall certify the result of the election to the board of trustees. If a majority of the votes cast upon the question is in favor of the issuance of such bonds and the construction and maintenance of such memorial building, the board of trustees shall proceed as hereinafter authorized. (95 v. 75 § 3.)

Question to  
be submitted  
to vote.

SEC. 14848. The commissioners of any county in this state be and they are hereby authorized to submit to a vote of the people of said county, at any general election for state and county officers, the question whether or not a tax of not more than one-half mill upon each dollar shall be levied upon all property upon the tax duplicate of said county to raise a fund wherewith to erect a monument or other suitable memorial structure to perpetuate the memory of soldiers from said county who served in the union army during the late rebellion. Providing, however, that in order to improve or maintain county property the commissioners of any county may appropriate from the general fund of the county, and without submitting the same to a vote of the people, any amount, or amounts not to exceed fifteen

County com-  
missioners  
authorized to  
submit ques-  
tion of tax  
levy for  
soldiers'  
monument.

Appropriation  
without sub-  
mission to  
vote.

## HOSPITALS.

hundred dollars, for the purpose of erecting or assisting in the erection upon county property of such memorial for the soldiers and sailors or for the repairing of any such memorial already erected. (106 v. 190.)

## CHILDREN'S HOME.

Establishment of children's home submitted to vote.

SECTION 3077. When in their opinion the interests of the public so demand, the commissioners of a county may, or upon the written petition of two hundred or more taxpayers, shall, at the next regular election submit to the qualified electors of such county, or of the counties forming a district, the question of establishing a children's home for such county or district, and the issue of county bonds or notes to provide funds therefor. Notice of such election shall be published for at least two weeks prior to taking such vote, in two or more newspapers printed and of general circulation in such county or in the counties of the district, and shall state the maximum amount of money to be expended in establishing such home. (R. S. Sec. 929.)

Duty of commissioners if vote is favorable.

SECTION 3078. If at such election a majority of electors voting on the proposition are in favor of establishing such home, the commissioners of the county, or of any adjoining counties in such district, having so voted in favor thereof, shall provide for the purchase of a suitable site and the erection of the necessary buildings and provide means by taxation for such purchase and the support thereof. Such institution shall be styled the children's home for such county or district. (R. S. Sec. 929.)

## HOSPITALS.

County hospital; special election.

SECTION 3127. When two hundred or more taxpayers of a county petition the county commissioners for the privilege of having submitted to a vote of the electors of such county the issue of county bonds or notes to provide funds for the purchase of a site and the erection thereon of a county hospital or hospital buildings and the support thereof, such commissioners shall order a special election to be held not less than forty nor more than sixty days from the filing of such petition with such board of county commissioners. Such election shall be to determine the question of issuing bonds or notes for the county hospital, to purchase the site therefor, erect the buildings thereon and to maintain them. The election shall be held at the usual places in the county for electing county officers and notice shall be given and the election conducted in the same manner as nearly as practicable as the election of county officers. (99 v. 486 § 1.)

Petition, contents and publication.

SECTION 3128. Petitions filed with the commissioners shall stipulate the maximum amount of money to be expended in purchasing or building such hospital and it shall be published with notices of the election in at least two

## BONDS FOR AGRICULTURAL SOCIETIES.

newspapers of general circulation in the county, at least one time, twenty or more days prior to the election. (99 v. 486 § 2.)

SECTION 3129. The ballots to be used at such election shall be provided with the following affirmative and negative statement: Form of ballot.

“For bond issue for purchase of site and erection of county hospital.”

“Against bond issue for purchase of site and erection of county hospital.” (99 v. 487 § 3.)

## PURCHASE OF TOLL ROADS.

SECTION 9263. The county commissioners of any county in the state, when petitioned to do so by at least fifty freeholders, citizens of the counties, shall purchase any or all of the toll roads or parts thereof within such counties, as hereinafter provided. Before such purchase is made the commissioners of the county in which the people vote in favor of purchasing the toll roads, shall make an order to that effect on their journals and submit the purchase to the voters of the county either before or after an appraisalment of the value of the roads has been had, at any regular election, giving at least ten days' notice thereof, in at least two newspapers published in the county. At such election the voters who favor the purchase shall mark on their ballots, “Purchase of toll roads, Yes”; and those opposed thereto, “Purchase of toll roads, No”. If, at such an election, a majority of those voting are in favor of such purchase, the commissioners may make it, but not otherwise. The vote shall be returned by the judges of election to the deputy state supervisors of elections, who shall open, count and declare it as in an election for county officers, and certify it to the county commissioners. (R. S. Sec. 3498a.) When county commissioners may purchase toll-road.

## BONDS FOR AGRICULTURAL SOCIETIES.

SECTION 9888. In counties wherein there is a county agricultural society which has purchased a site whereon to hold fairs, or if the title to such ground is vested in fee in the county, and such society is indebted fifteen thousand dollars or more, upon the presentation of a petition signed by not less than five hundred resident electors of the county praying for the submission to the electors of the county of the question whether or not county bonds shall be issued and sold to liquidate such indebtedness, such commissioners, within ten days thereafter by resolution shall fix a date which shall be within thirty days, upon which the question of issuing and selling such bonds, in amount and denomination such as are necessary for the purpose in view, shall be submitted to the electors of the county. They also shall cause a copy of such resolution to be certified to the deputy Submission of question of issuing bonds.

## PURCHASE OF FAIR GROUNDS.

state supervisors of elections of the county, who, within ten days thereafter shall proceed to prepare the ballots and make all other necessary arrangements for the submission of such question to such electors at the time fixed by the resolution. (93 v. 358 § 1.)

Conduct of  
the election.

SECTION 9889. Such election shall be held at the regular places of voting in the county and conducted, canvassed and certified except as otherwise provided by law, as are elections for the election of county officers. The deputy state supervisors of election must give fifteen days' notice of the submission by publication in one or more newspapers published in the county once a week for two consecutive weeks, stating the amount of bonds to be issued, the purpose for which issued and the time and places of holding such election. Those who vote in favor of the proposition shall have written or printed on their ballots "for the issue of bonds" and those who vote against it, have written or printed on their ballots "against the issue of bonds." If a majority of the voters voting upon the question of issuing the bonds vote in favor thereof, then and not otherwise they shall be issued, and the tax hereinafter mentioned be levied. (93 v. 358 § 1.)

Bonds.

SECTION 9890. If a majority of the voters of such county voting upon the question of issuing the bonds vote in favor thereof, the board of county commissioners, for the purpose of liquidating such indebtedness, shall issue and sell the bonds of the county according to law, in the amount necessary and bearing not more than six per cent interest, payable semi-annually. (93 v. 359 § 2.)

## PURCHASE OF FAIR GROUNDS.

Commission-  
ers may pur-  
chase  
grounds.

SECTION 9895. If the county society and the county commissioners decide that the interests of the society and county demand an appropriation from the county treasury for the purchase and improvement of county fair grounds greater than that authorized by the preceding section, or without action of or purchase by the society, the commissioners may levy a tax upon all the taxable property of the county, the amount of which they shall fix, but shall not exceed half a mill thereon, in addition to the amount authorized in the preceding section to be paid for such purpose (R. S. Sec. 3703.)

Question of  
tax to be  
submitted.

SECTION 9896. No such tax shall be levied until the question as to the amount is submitted by the commissioners to the qualified electors of the county at some general election, a notice of which, specifying the amount to be levied, has been given at least thirty days previous to such election, in one or more newspapers published and of general circulation in the county. Those voting at the

## PURCHASE OF FAIR GROUNDS.

election in favor of the tax shall have written or printed on their ballots "Agricultural tax, Yes", and those voting against it, "Agricultural tax, No". If a majority of the votes cast be in favor of paying such tax, it may be levied and collected as other taxes. (R. S. Sec. 3704.)

SECTION 9897. When such tax is collected by the county treasurer, the auditor shall issue his order for the amount thereof to the treasurer of the county agricultural society, or his filing with the auditor a bond in double the amount collected with good and sufficient sureties, to be approved by the auditor, conditioned for the faithful paying over and accounting to such society for such funds. (R. S. Sec. 3704.)

When tax paid to treasurer of society.

SECTION 9898. When a society is dissolved or ceases to exist, in a county where payments have been made for real estate, or improvements thereon, or for the liquidation of indebtedness, for the use of such society, all such real estate and improvements shall vest in fee simple in the county by which the payments were made. (R. S. Sec. 3705.)

When real estate vests in county.

SECTION 9899. The county commissioners of a county may keep the buildings owned by the county agricultural society or county insured, if deemed proper by them, for the benefit of such society, or the county, as the case may be. (R. S. Sec. 3705a.)

Insurance on property.

SECTION 9900. When a county society desires to sell its site in order to purchase another, or if for any reason such site is unfit or insufficient for the purposes for which it is used, and at a regular meeting, by a vote of at least a majority of all the members of its board of directors, upon a call of the yeas and nays, it adopts a resolution for the purpose of securing the benefits hereof and declaring a desire to sell such site in order to buy another, or that the site has become unfit or insufficient, and that it is for the best interests of the society and county, that such site be sold or leased, and a new one bought or leased, the society may sell or lease such old site and buy or lease a new one for holding county fairs as hereinafter provided. But in cases where the county paid all or any portion of the purchase money for the site to be sold or leased, the written consent of the county commissioners shall first be given to such sale or lease. Within thirty days after its passage, such board of directors shall give notice in writing to the commissioners of such county of the adoption of such resolution declaring the necessity of selling or leasing such site and buying or leasing a new site, which notice shall contain or have annexed thereto a certified copy of the resolution, signed by the president and secretary of the board of directors. (R. S. Sec. 3706.)

May sell, lease or purchase sites.

## PURCHASE OF FAIR GROUNDS.

When commissioners shall carry out contracts.

SECTION 9901. When such society has given notice to the commissioners as above provided, and has selected or secured options for the purchase or lease of a new site for holding county fairs in such county, its board of directors shall immediately give notice of all such facts to the commissioners, which notice if such old site is sold or leased before the purchase or lease of the new one, shall state the amount for which it was sold or leased, also the amount of money necessary to acquire such new site, and the terms and conditions of the purchase or lease thereof, together with a full description of the tracts or parcels of land and improvements thereon, included therein. After the filing of such notices, the commissioners may complete and carry into effect any contract or contracts which such society made for the purchase or lease of the new site. (R. S. Sec. 3706a.)

Payment for purchase or lease of land.

SECTION 9902. Payment for the purchase or lease of the land included in such site, and the improvements thereon, may be made by the county commissioners from any unappropriated funds in the county treasury at the time it is to be made. If no such funds are then in the treasury, the commissioners may issue the bonds of the county for such amounts as are necessary for the purchase or lease of the land and the improvements thereon. But if such old site is sold or leased before the new site is purchased or leased, in making the payment such society first shall apply the moneys realized from the sale or lease to the purchase or lease of the new site. If the old site is sold or leased after the purchase or lease of the new site, the amounts realized from such sale or lease shall be placed to the credit of the sinking fund for the redemption of bonds issued as hereinafter provided. Such bonds shall bear not more than five per cent interest per annum, payable semi-annually, not be sold for less than their par value, and shall be payable at such place, times, and in such denominations as the commissioners determine. (R. S. Sec. 3706b.)

Levy for payment of bonds.

SECTION 9903. To provide for the payment of such bonds, and interest thereon, the county commissioners may levy such annual taxes on all the taxable property of the county, as are necessary to create and provide a sinking fund for the redemption of the bonds at maturity and the interest accruing thereon. Such levy shall be collected and accounted for to the county treasurer in the manner provided for the collection of other taxes. (R. S. Sec. 3706b.)

Submission of question of issuing bonds.

SECTION 9904. Before issuing such bonds, the commissioners by resolution shall submit to the qualified electors of the county at the next general election for county officers held not less than thirty days after receiving from such agricultural society the notice provided for in section

## WATERWAY OR CANAL.

thirty-seven hundred and six, the question of issuing and selling such bonds, in amount and denomination as necessary for the purpose in view, and shall certify a copy of such resolution to the deputy state supervisors of elections of the county. (R. S. Sec. 3706b.)

SECTION 9905. Such deputy state supervisors shall place the question of issuing and selling such bonds upon the ballot and make all other necessary arrangements for the submission of such question to the qualified electors of such county, at the time fixed by such resolution. The votes cast upon the question must be counted, canvassed and certified in the same manner, except as otherwise provided by law, as votes cast for county officers. Fifteen days' notice of such submission shall be given by the deputy state supervisors, by publication once a week for two consecutive weeks in two or more newspapers published in the county, stating the amount of bonds to be issued, the purpose for which they are issued, and the time and places of holding the election. Such question must be stated on the ballot as follows: "For the issue of county fair bonds, Yes;" "For the issue of county fair bonds, No". If the majority of the voters voting upon the question of issuing the bonds are in favor thereof, then, but not otherwise, they shall be issued, and the tax hereinbefore mentioned be levied. (R. S. Sec. 3706b.)

The election.

## WATERWAY OR CANAL.

SECTION 2503-1. That whenever a canal or waterway of substantially definite route shall be authorized to be constructed by or under the authority, management and control of the government of the United States, or of the state of Ohio, either separately or jointly or in co-operation with any state or states to connect the great lakes or the ocean with the navigable waters of this state, or with the Ohio river, by a route situate within, or partly within and partly without the state, suitable for steamships, steamboats, barges or other vessels, it shall be lawful for any county situate on the route thereof or connected therewith by navigable waters, or railroad, or other highway of commerce in such manner that the construction of such canal or waterway will be for the general public benefit of the community of such county, to give and by the appropriation of money or the issue of bonds as hereinafter set forth.

Counties may give aid to establish water-way.

Provided that such canal or waterway shall be and remain exclusively a public enterprise under public management, control and operation, free from the private management, or interest, or possession in any wise of any individual, company, corporation, association or institution, and

Provisos.

## WATERWAY OR CANAL.

Provided, further, that of any surplus of tolls, rates and charges accruing from the operation of such canal or waterway or the sale of water or water power or from other income remaining after payment of the cost of operation, maintenance and improvement, such county shall receive such proportionate part as its contribution bears to the total sum contributed for the construction of said canal or waterway. (102 v. 462.)

100 or more  
persons may  
petition C. P.  
court to order  
election.

SECTION 2503-2. It shall be lawful for one hundred or more resident taxpayers and qualified voters of the proper county to petition the court of common pleas of such county setting forth that the construction of a canal or waterway of substantially definite route has been authorized by law, and describing in a general way such a route, and showing that the county of the petitioners is situate on the said route, or is connected therewith by navigable waters, or a railroad, or other highway of commerce as in such petition set forth, and that in the judgment of the petitioners the construction of such canal or waterway will be for the general public benefit of the community of the county of the petitioners, and that it is desirable that the credit of the county be loaned for the purpose of aiding the construction of such canal or waterway in such manner as may be provided by law, and so that the same shall remain a public enterprise, and free from the private management, or interest, or possession in any wise of any individual, company, corporation, association, or institution, and that for the purpose aforesaid, it is desirable that the county of the petitioners shall issue interest bearing bonds to the amount stated in such petition, and praying the court to order an election to be held in the said county upon the question of the issue of said bonds to the amount and for the purpose stated. The said petition shall be verified by affidavit of at least five of the petitioners, and on presentation thereof, if the same shall appear to be in proper form, it shall be filed, and thereupon the court shall fix a time for the hearing of the same, not more than sixty days thereafter, and direct that notice of the same be given to the county commissioners, and also the public generally by advertisement and publication in one or more newspapers published in said county in such issues thereof as the court may direct. Any person interested, including the county commissioners, may file exceptions to said petition prior to the day fixed for the hearing, and on such hearing, any person in interest may be heard, and the court shall decide upon the truth of any matter set forth in the petition in case the same shall be disputed, save as to the matters set forth upon the judgment of the petitioners as to the public benefit involved and the desirability of the issue of bonds as set forth, which matter shall be deemed to depend upon the result of the election prayed for, and if the court shall find that such petition and proceedings are regular and in conformity

Hearing.

Exceptions.

## WATERWAY OR CANAL.

with this act, and that the construction of a canal or waterway of substantially definite route has been authorized by authority of law, and that the county is situated on such route, or is connected therewith by navigable waters, or railroad, or other highway of commerce, as set forth, it shall order an election to be held in the county after notice of such election has been given in the manner provided by law for elections of county officers. If the order shall be made more than thirty days and less than ninety days before the next regular election of municipal or state officers, such election shall be held at such regular election; but if not, then a special election shall be ordered to be held after notice, as aforesaid; and the deputy state supervisors of elections shall prepare separate ballots for such election, upon which shall be printed in brief form, a statement of the questions submitted followed by the words "for a bond issue" or "against a bond issue", and shall provide separate boxes to receive the said ballots when voted. The said election shall be held at the regular polling places, and shall be conducted and the vote canvassed and certified in the same manner as provided by law for the election of county commissioners. The expense of the election shall be borne by the county. If the majority of the vote is in favor of a bond issue, then the county commissioners shall prepare and cause to be issued, in due conformity with the law, the bonds of the county to the amount set forth in the petition, and for the purposes therein set forth; but if a majority of the electors shall vote against a bond issue, the question of a bond issue for such purpose shall not again be submitted to a vote of the electors for a period of less than two years from the date of said election. All the penalties of the election laws for the violation thereof are hereby extended and shall apply to the voters, inspectors, judges and clerks voting at or in attendance upon such election.

Order.

When election held.

Expense.

The county commissioners upon the issuing of any bonds in pursuance to the terms of this act, shall deliver them to the proper state or federal authority constructing said canal or waterway, to be realized upon, at not less than par, and the proceeds thereof expended under such authority in the construction of such canal or waterway. (102 v. 462.)

Delivery of bonds.

SECTION 2503-3. This act contemplates, among other things, the construction of canals or waterways by means of funds contributed by counties, interested or benefited, whether of this state or in co-operation with the counties of other states or other public authorities. And for the purposes of co-operation and safe-guarding the respective interests of the contributing counties in the proportion of their respective contributions and in respect of the same the respective county commissioners are hereby authorized to enter into such proper arrangements and agreements with the secre-

Act includes funds contributed.

Agreements for protection of funds contributed.

tary of war, or any other public authority empowered to act in the premises under any act of congress or act of the general assembly of this or the legislative authority of any other state as may be necessary for such purposes; and also with counties and other public authorities either of this or other states with a view to harmonious and efficient action and proportionate contribution as nearly as may be arrived at or found to be practicable. (102 v. 462.)

### ORIGINAL SURVEYED TOWNSHIPS.

Organization  
and incor-  
poration.

SECTION 3181. As soon as there are four, or more, electors in an original surveyed township of five or six miles square, or fractional township, wherein there is either the reserved section twenty-nine or sixteen, or where such section sixteen has been disposed of by congress and another section granted instead thereof, whether such other section be situated within or without such original township, and in all other fractional townships which by law are entitled to a section or part of a section for school purposes, such electors, or any of them may apply to the county commissioners for the organization and incorporation of such original township or fractional township. (R. S. Sec. 1366.)

Application;  
notice of  
election.

SECTION 3182. On the application of any such electors, and it is made to appear to the satisfaction of the county commissioners, that there are at least four electors in such original or fractional township, the commissioners shall order an election of three trustees and one treasurer therein, and give at least fifteen days' written notice of such election, by posting in three of the most public places in the township such notices, designating the time and place of such election, and the place shall be as near the center of such township as practicable. (R. S. Sec. 1367.)

Conduct of  
elections.

SECTION 3183. Elections in such original surveyed townships shall be held at such times and conducted in such manner as the trustees of the townships provide. The place of holding such election shall be as near the center of the township as can be, and at least fifteen days' notice of such election shall be given by notices posted in five or more of the public places of the township. (R. S. Sec. 1368.)

There is no provision of law for the payment of judges and clerks of elections in original surveyed townships, where such election is held under authority of this section, and other sections following, relating to elections in original townships. L. 11-29-05.

### OFFICERS OF NEW TOWNSHIPS.

Election in  
new town-  
ship.

SECTION 3259. When a new township is set off, the county commissioners shall forthwith give at least ten days' public notice by advertisement, in three public places in such township, of the time and place of holding an elec-

tion for township officers. At such time and place the electors of the township shall assemble, and elect officers, who shall hold their offices until the next regular township election and their successors are elected and qualified. (R. S. Sec. 1441.)

SECTION 3260. The trustees shall fix the place of holding elections within their township, or of any election precinct thereof. For such purpose they may purchase or lease a house and suitable grounds, or by permanent lease or otherwise acquire a site, and erect thereon a house. If a majority of the electors of the township or a precinct thereof, voting at any general election, vote in favor thereof, the trustees may purchase a site and erect thereon a town hall for such township or precinct and levy a tax on the taxable property within such township or precinct to pay the cost thereof, which shall not exceed two thousand dollars. At least thirty days' notice shall be given in at least five of the most public places in the township or precinct, that at such election a vote will be taken for or against a tax for such purchase. (R. S. Sec. 1443.)

Trustees shall fix place of holding elections.

#### SALE OF REAL ESTATE.

SECTION 3281. The trustees may receive on behalf of the township, any donation by bequest, devise, or deed of gift, or otherwise, of any property real or personal, for any township use. When the township has real estate or buildings which it does not need, the trustees may sell and convey them, when at the township election a majority of the electors voting at such election have voted in favor thereof. Notice shall be given of the submission of the question as provided in case of the enlargement, removal or improvement of town halls. (R. S. Sec. 1481.)

Trustees may receive donations for township use.

#### HEARSE.

SECTION 3285. The trustees of a township may levy a tax in such amount, as they determine, to purchase a hearse and build a vault, or for either purpose, for the use of such township to be under the control of the trustees, or a person appointed by them. The question of levying such tax, for either or both of such purposes, and the amount asked therefor shall be separately submitted to the qualified electors of the township at a general election. Twenty days' notice thereof shall be previously given by posting in at least three public places in the township. Such notice shall state specifically the amount to be raised, and whether for purchase of hearse, or erection of vault. If a majority of all the votes cast at such election are in favor of either proposition or both, the tax herein provided for shall be considered authorized. (R. S. Sec. 1485.)

How hearse and vault may be provided.

## OIL OR GAS WELL — BOND ISSUE.

Election therefor.

SECTION 3286. The electors voting at such election shall have placed on their ballots the words, "Tax for Hearse—Yes" or "Tax for Hearse—No," and upon the same ballot, "Tax for Vault—Yes," or "Tax for Vault—No," and may vote for one proposition and against the other, or for or against both. (R. S. Ssc. 1486.)

Bonds in anticipation of such tax.

SECTION 3287. When such tax has been voted in a township, the trustees thereof, in anticipation of such tax may issue the township bonds, of the aggregate amount not to exceed the tax voted, in denominations of not less than fifty dollars, bearing interest at the rate not exceeding six per cent and payable not later than four years from date. Such bonds shall not be sold below par, and the proceeds shall be used solely for the construction of such vault. Such bonds shall be signed by the trustees, countersigned by the township clerk, and repaid from the tax when collected. (R. S. Sec. 1487.)

## OIL OR GAS WELL.

Tax for drilling oil or gas well.

SECTION 3292. In addition to the tax already authorized by law, the trustees of any township may levy a tax not to exceed five mills on the dollar for the purpose of drilling an oil or gas well in the township, when so authorized by a majority vote of the electors of such township at a regular or special election. Such election shall be conducted the same as elections for township officers, and the tax shall be collected as other taxes. (95 v. 449 § 1.)

## BOND ISSUE.

Bonds for specific purposes.

SECTION 3295. The trustees of any township may issue and sell bonds in such amounts and denominations, for such periods of time and at such rate of interest, not to exceed six per cent., for any of the purposes authorized by law for the sale of bonds by townships or by municipal corporations for specific purposes, and for the purpose of providing funds to pay the township's share of the cost of any improvement made under an agreement with the county commissioners, when not less than two of such trustees, by an affirmative vote and by resolution, deem it necessary, and the provisions of law applicable to municipal corporations with reference to the limitations upon the amount of bonds to be issued, and for the submission of the question of their issuance to the voters, shall extend and apply to the trustees of townships. Such township bonds shall be advertised and sold in the manner provided by law. All bonds heretofore issued by township trustees under assumed authority for the improvement of roads in connection with county commissioners, shall, in so far as the same might otherwise be held invalid on account of the absence of power of such trustees to issue bonds for such purpose, be held to be legal, valid and binding obligations of the township issuing such bonds. (106 v. 536.)

## ROAD IMPROVEMENT.

SECTION 3298-9. Before the bonds of the township are issued to provide funds for improving the roads thereof, the question of issuing said bonds shall be first submitted to the qualified electors of the township at a general or special election therefor. The trustees shall provide by resolution for the submission of such question to the qualified electors of the township, and shall give notice by publication once each week for three consecutive weeks in a newspaper of general circulation in said township of the date of such election, and the purpose for which it is held. Said notice shall state the amount of the proposed bond issue.

Submission of question of bond issue; resolution; notice.

SECTION 3298-10. The clerk of the township shall file a certified copy of such resolution with the deputy state supervisor of elections of the county not less than thirty days before the date fixed for such election. The deputy state supervisors of elections shall cause to be prepared and furnished at the expense of the township, ballots and supplies for such election. On the ballots at such election shall appear the words: "Road Improvement Bonds—Yes. Road Improvements Bonds—No." The deputy state supervisor of elections shall give notice to the proper election officials for the holding of such election.

Form of ballot.

SECTION 3298-11. The election officers shall forthwith certify the result of such election to the clerk of the township and the township trustees shall make a record of such result. If the number of votes cast in favor of the issue of bonds is a majority of the electors who participated in the last election for governor in the township the trustees may proceed to issue such bonds. The township clerk shall certify the result of such election to the county auditor. (106 v. 59.)

Record and certification of result.

SECTION 3298-20. The trustees of a township may levy a tax in such amount, as they determine, to purchase real property, containing suitable stone or gravel, and the necessary machinery for operating the same, when deemed necessary for the construction, improvement, or repair of the public roads within the township, to be under the control of the trustees or a person appointed by them. The question of levying such tax, for such purpose, and the amount asked therefor shall be submitted to the qualified electors of the township at a general election. Twenty days' notice thereof shall be previously given by posting in at least ten public places in the township. Such notice shall state specifically the amount to be raised. If a majority of all votes cast at such election are in favor of the proposition, the tax therein provided for shall be considered authorized. Such tax may be levied in addition to all other taxes for township purposes, but subject however to the limitation on the combined maximum rate for all taxes now in force. (106 v. 653.)

Tax levy to purchase property containing stone or gravel; submission of question.

## HALLS.

Town hall,  
cost; election.

SECTION 3395. If in a township, it is desired to build, remove, improve or enlarge a town hall, at a greater cost than is otherwise authorized by law, the trustees may submit the question to the electors of the township, and shall cause the clerk to give notice thereof and of the estimated cost, by written notices, posted in not less than three public places within the township, at least ten days before election. (R. S. Sec. 1479.)

Submission of constructing a town hall must be at a regular municipal election. Atty. Gen. 3-9-1908.

Form of ballot; levy and bond issue.

SECTION 3396. At such election the electors in favor of such hall, removal, improvement or enlargement shall place on their ballots "Town Hall—Yes", and those opposed "Town Hall—No". If a majority of all the ballots cast at the election are in the affirmative, the trustees shall levy the necessary tax, but not in any year to exceed four mills on the dollar valuation. Such tax shall not be levied under such vote for more than seven years. In anticipation of the collection of taxes, the trustees may borrow money and issue bonds for the whole or any part therefor, bearing interest not to exceed seven per cent, payable annually. (R. S. Sec. 1479.)

Control and leasing of hall.

SECTION 3397. After such affirmative vote, the trustees may make all needful contracts for the purchase of a site, and the erection, or the improvement or enlargement of a town hall. They shall have control of any town hall belonging to the township, and from time to time, may lease so much thereof as may not be needed for township purposes, by the year or for shorter periods, to private persons, or for lecturers or exhibitors, in all cases having the rent paid in advance or fully secured. The rents received may be used for the repair or improvement of the hall so far as needed, and the balance for general township purposes. (R. S. Sec. 1480.)

Proceedings when site cannot be procured by contract.

SECTION 3398. In all cases where the trustees have been authorized by such affirmative vote, to purchase a site and erect thereon a town hall, or to provide a house and grounds for voting purposes as authorized by law, and suitable lands cannot be procured by contract for that purpose on reasonable terms, they may appropriate land therefor, not exceeding one acre, by proceedings in accordance with the law regulating the appropriation of private property by municipal corporations, but such appropriation shall not be made until the court is satisfied that such lands cannot be obtained by contract on reasonable terms. (R. S. Sec. 1480a.)

Village and township may jointly enlarge, improve or erect public building.

SECTION 3399. The electors of a township in which a village is situated, and the electors of such village may if both so determine, as hereinafter provided, unite in the enlargement, improvement or erection of a public building. (97 v. 483 § 1.)

## LIBRARIES — PARKS.

SECTION 3400. For such purpose an application shall be made to and filed with the trustees of the township, signed by not less than twenty-five resident free-holders of such township, who are not resident of the village. An application shall also be made to and filed with the mayor of the village, signed by not less than twenty-five resident free-holders of the village. (97 v. 483 § 2.)

Application to mayor and township trustees.

SECTION 3401. At the next general township and municipal election after such applications have been so filed, the question as to whether or not a tax shall be levied upon all the property subject to taxation in such township and village for the enlargement, improvement or erection of a public building, shall be submitted to the electors of such township and of such village. Ten days' notice that the question will be submitted to the electors, shall be given by the trustees of the township and the mayor of the village, in a newspaper of general circulation in such township and village, which notice shall state the maximum amount of money proposed to be used for such purpose, and the rate of tax proposed to be levied. (97 v. 484 § 3.)

Submission of question of tax to a vote.

SECTION 3402. If at such election two-thirds of the electors of the township and of the village voting, vote in favor of such improvement, the trustees of such township and the council of the village shall jointly take such action as is necessary to carry out such improvement. (97 v. 484 § 4.)

Two-thirds vote necessary.

## LIBRARIES.

SECTION 3403. On the petition of twenty electors thereof, and upon four weeks' public notice, published in a paper of general circulation in the county, the trustees of a township shall submit to the electors of such township, at the general election in November, the question whether there shall be a public library established in the township for the use and benefit of the citizens thereof. (R. S. Sec. 1476.)

Question of public library shall be submitted to electors.

SECTION 3404. Those voting at such election in favor of such library, shall place upon their ballots the words "Public Library — Yes", and those voting thereat against such library, the words, "Public Library — No". If a majority of the electors voting at such election vote in favor thereof, the trustees may, annually, levy upon all the taxable property of such township a tax not exceeding one mill on the dollar valuation thereof, to be applied to the establishment and maintenance of a library, and the procuring of suitable room or rooms therefor. (R. S. Sec. 1476.)

Form of ballot; tax and levy.

## PARKS.

SECTION 3415. When any number of electors in a township, including all municipal corporations therein, equal to or exceeding one-tenth of the total vote cast in such township at the general or township election next preceding,

Petition for establishment of township park.

## PARKS.

file a petition with the township trustees for proceedings to establish a free public park for such township, they shall certify that fact to the court of common pleas of the county, which court, or a judge thereof, shall appoint a board of park commissioners for such township. (97 v. 411 § 1.)

Report of  
board as to  
site and cost.

SECTION 3417. The board of park commissioners shall call to their assistance one or more skilled landscape architects, and, if desired, other expert advice, as to suitable places for the location of such park. They shall make a written report to the township trustees of their findings and recommendations, with an estimate of the cost of the land recommended for park purposes. Before filing such written report, they may take options and receive bids from owners of land for park purposes. (97 v. 411 § 2.)

Notice of  
submission of  
question.

SECTION 3418. Upon filing such report, the township trustees shall direct the township clerk to give thirty days' notice by posting in five public places in the township, and by publication in one or more newspapers of general circulation therein, that an election will be held at the next general or township election to determine whether a free public park shall be established for the township, and the estimated cost of the land recommended for that purpose. (97 v. 412 § 3.)

Form of  
ballot.

SECTION 3419. The trustees shall also direct the clerk to file written notice with the proper authority, having charge of the preparation of official ballots, that such election will be held and that there shall be written or printed on the ballots, "For free public park, yes", or "For free public park, No". If a majority of the votes cast is in favor of the proposition, a free public park shall be established for such township. If a majority of the votes cast is against the proposition, such board of park commissioners shall be abolished and the township trustees shall provide for and pay all proper expenses by it so incurred. (97 v. 412 § 3.)

Petition for  
sale of park  
lands.

SECTION 3422-1. Whenever in their opinion the interests of the township so require the board of park commissioners may submit the question of selling the whole or any part of any lands so held by them, and when any number of electors in a township including all municipal corporations therein equal to or exceeding one-tenth of the total vote cast in such township at the general election next preceding file a petition with the said board of park commissioners asking for a sale of the whole or any part of any lands so held by them, which real estate or buildings is specifically described therein, said board of park commissioners shall submit the question of such sale to the electors of such township including all municipal corporations therein at any general election, or at a special election called by said board for such purpose. The board of park commissioners shall give twenty days' notice by posting in five public places in the township and by publication in

Notice of  
election.

PARKS.

one or more newspapers of general circulation therein that an election will be held on the date named in said notice to determine whether or not said lands shall be sold. The board of park commissioners shall file written notice with the proper authority having charge of the preparation of official ballots, that such election will be held, and there shall be written or printed on the ballot, "The question as to the sale of park lands", "Sale — Yes" and "Sale — No". The returns of such election shall be canvassed by the clerk of said township and the result forthwith certified to the board of park commissioners, and if a majority of the electors voting upon such question have voted "Sale — Yes", said board of park commissioners shall sell and convey said land for the best price obtainable therefor, and said park commissioners shall make and file with the township clerk an affidavit showing that the same was sold, to whom, stating the amount received, and that it was sold for the best price obtainable therefore (101 v. 130.)

Form of ballots.

Affidavit of park commissioners.

SECTION 3423. To defray the expenses of purchasing, appropriating and improving lands for park purposes and maintaining them as a free public park, the township park commissioners may levy, each year, a sufficient tax, not to exceed one mill on each dollar of valuation on all real and personal property, including property within any municipal corporation within the limits of the township, over and above all other taxes and limitations thereon, authorized by law, unless the question of increasing such levy is submitted to and approved by a vote of the electors of such township, at a general or township election. Such vote shall be taken on the order of the township park commissioners, specifying the additional levy they desire to make and the purpose for which it is desired. (97 v. 413 § 7.)

Tax levy to defray expenses.

SECTION 3424. On the making of such order the township clerk shall give notice at least thirty days before the election that the vote will be taken, by posting printed notices in at least five public places therein, and by publication in not less than one newspaper of general circulation therein. The electors who favor the proposition shall have printed or written on their ballot "..... park improvement (naming it)—yes;" and those opposed to the proposition shall have printed or written on their ballots "..... park improvement (naming it)—no." If a majority of all the votes cast upon the proposition is in favor of it, the township park commissioners may levy the additional tax. (97 v. 413 § 7.)

Submission of question of increased levy.

SECTION 3427-2. In paying any expenses of park management and improvements authorized by section 1 of this act the township trustees may appropriate and use for such purposes any funds in the township treasury then unappropriated for any other purpose. Should there be no available funds in the township treasury or not sufficient in

Empowered to make appropriations and levy tax.

## MEMORIAL BUILDING

amount to pay for the desired park management and improvements in any year, the township trustees are authorized and empowered to levy a tax to pay for such park management and improvements, which tax shall be levied upon all of the taxable property in the township and shall be certified, levied and collected in the manner prescribed by law for the certification, levy and collection of other township taxes, and the money so raised shall be paid over to the township treasurer and by him paid out on the order of the township trustees certified by the township clerk; provided, however, that if a sum greater than two thousand dollars is to be expended by said trustees for park management and improvement purposes in any one year, and such sum is not available from any unappropriated money in the township treasury, before any tax for park management and improvement purposes shall be levied which will amount to more than two thousand dollars, the question of levying such additional tax shall be submitted to and approved by the majority of the electors of the township voting on the question. If such election shall be necessary, it shall be called at a regular meeting of the township trustees and shall be held within thirty days from the date of the resolution calling the same. Twenty days' notice of said election shall be given by the posting of notices thereof by the township clerk in ten public places in the township, and provisions for the holding of said election shall be made by the deputy state supervisors of elections upon receiving from the clerk of the township notice of the date and purpose of said election; provided, however, that nothing in this act shall in any way or manner repeal, affect or modify any law relating to park commissioners now in force, or to prevent the appointment of any park commissioners in the future, or to repeal, affect or modify the authority of park commissioners now appointed or hereafter appointed. 106 v. 279.)

When tax levy shall be submitted to electors; notice and time of election.

## MEMORIAL BUILDING.

SECTION 3410-1. That whenever the trustees of any township in any county by resolution passed by a majority of such trustees shall certify to the resident common pleas judge of the county in which such township is located, or if there be no resident common pleas judge, then the common pleas judge of the subdivision in which said township is located having had the longest tenure in office, or if there be none such, then to the oldest common pleas judge of the subdivision in which such township is located, that in their opinion it is desirable to erect, furnish and maintain a memorial building to commemorate the services of the soldiers, sailors, marines and pioneers of said township, and to expend for such purpose an amount to be named by them not exceeding two hundred and fifty thousand (\$250,000) dollars in any one instance, the common pleas judge to whom such certification is made, shall appoint a board of

Township memorial buildings.

Maximum expenditure.

## MEMORIAL BUILDING.

trustees composed of seven citizens of said township, one of whom shall be appointed for the term of one year, one for two years, one for three years, one for four years, one for five years, one for six years and one for seven years, and each and every year thereafter the resident judge of the court of common pleas of the county in which said township is located, if there is, and shall be hereafter when an appointment is to be made a resident judge, and if not, then by any common pleas judge of the subdivision in which said township is located having power to make original appointments under this act shall appoint a successor for a term of seven years, to the trustee whose term of office then expires; but not more than four of the members of said board of trustees shall belong to the same political party; said board to be known as the "soldier's and sailor's memorial association of . . . . . township, . . . . . county, Ohio." (IOI v. 387.)

Trustees; appointment, terms of office, etc.

SECTION 3410-2. Said trustees shall receive no compensation but shall be entitled to be repaid for their necessary expenses out of the fund hereinafter provided. All vacancies in the office of trustee occurring by death, resignation, removal from said township or otherwise shall be filled, in the same manner as the original appointment, for the then unexpired term or terms. Said trustees shall elect from their own number a chairman, secretary and treasurer and shall hold regular meetings at such times and places as they may agree upon and special meeting under such regulations as they may prescribe, and cause to be kept a full record of their proceedings. (IOI v. 387.)

Vacancies.

SECTION 3410-3. Immediately upon the appointment and organization of said board of trustees, they shall certify to the deputy supervisors of election of the county in which such township is located and in which said board is organized, the fact of their appointment and organization, and direct the submission to popular vote at the next regular township election of the question of the issuing of bonds in the amount specified by the township trustees in their original resolution, and of the erection and maintenance of the memorial building contemplated. The deputy supervisors of election of said county shall submit said question to popular vote at the next regular township election with such forms of ballot as said deputy supervisors may prescribe and shall certify the result of said election to the board of trustees. If a majority of the votes cast upon said question is in favor of said issuance of said bonds and the construction and maintenance of said memorial building, said board of trustees shall proceed as hereinafter authorized. (IOI v. 387.)

Township election.

## CEMETERIES.

Trustees may acquire lands for cemeteries.

SECTION 3441. Township trustees may accept a conveyance of, or purchase, and inclose, improve, and protect such lands in one or more places within the township as they deem necessary and proper for cemetery purposes. If suitable lands cannot be procured by contract on reasonable terms, they may appropriate lands therefor, not to exceed ten acres, by proceedings in accordance with the provisions of law regulating the appropriation of private property by municipal corporations. (R. S. Sec. 1464.)

Levy and taxes for expenses.

SECTION 3444. To defray the expenses of such purchase or appropriation, inclosing and improving of such lands, the trustees may levy for one or more years a tax sufficient for that purpose, not to exceed two thousand dollars in any one year, and each year thereafter such sum as may be necessary for the needful care, supervision, repair, and improvement of such cemeteries. (R. S. Sec. 1465.)

Vote may be taken.

SECTION 3445. Before such purchase or appropriation is made or conveyance accepted the question of establishment of such cemetery, on the order of the trustees, or the written application of any six electors of the township, shall be submitted to a vote of the electors of the township at a regular annual election. Such order or application shall specify as near as may be the proposed location of such cemetery, and the estimated cost thereof, including inclosing and improving it. (R. S. Sec. 1465.)

Notice of election; ballots.

SECTION 3446. On the making of such order or the filing of such application, and at least twenty days before the election, the clerk shall post written notices in at least three public places in the township, that the vote will be taken. The electors who favor the proposition shall place on their ballots for township offices the word "cemetery". If a majority of the votes given at such election on such proposition is in favor thereof, the trustees shall procure the lands for that purpose and levy taxes as hereinbefore provided. (R. S. Sec. 1465.)

## FOOT-BRIDGES.

Trustees empowered to construct as means of access to schools.

SECTION 7562-1. That the trustees of any township are authorized and empowered to construct, rebuild and repair foot-bridges across the rivers and streams in their respective townships when they may deem it necessary so to do in order to provide convenient means of access to the public schools of their said township by the pupils residing in the school district, wherein a public schoolhouse is located; but in no case shall the cost of the aforesaid construction, rebuilding or repair of any said foot-bridge exceed the sum of one thousand dollars. (104 v. 198.)

Submission of question as to tax levy.

SECTION 7562-2. Said township trustees are authorized to pay the cost of the construction, rebuilding or repair of such said bridges out of any funds, unappropriated for any other purpose and in the township treasury. Should

## MUNICIPAL CHARTER ACT.

there be no funds in the township treasury available for the aforesaid purposes, then the said trustees are authorized and empowered to levy a tax for the purpose of procuring the necessary funds for the construction, rebuilding or repair of said bridges, which said tax shall be levied upon all of the taxable property in said township, and shall be certified, levied and collected in the manner prescribed by law for the certification, levy and collection of other township taxes, and the money so raised shall be paid over to the township treasurer and by him paid out on the order of the township trustees certified by the township clerk; provided, however, that said tax shall not be levied until the same has been approved by a majority of the qualified voters of said township voting at any election at which said question shall be submitted. (104 v. 198.)

SECTION 7562-3. Said election shall be called at a regular meeting of the township trustees and shall be held within thirty days from the date of the resolution of the township trustees calling the same. Twenty days' notice of said election shall be given by the posting of notices thereof, by the township clerk, in ten public places of said township, and provisions for the holding of said election shall be made by the deputy state supervisors of elections upon receiving notice, from the clerk of the township, of the date and purpose of said election. (104 v. 198.)

Election.

## MUNICIPALITIES.

## SURRENDER OF CORPORATE POWERS.

SECTION 3513. Villages may surrender their corporate powers upon petition to council of at least forty per cent. of the electors thereof, to be determined by the number voting at the last municipal election, and an affirmative vote of a majority of such electors at a special election which shall be provided for by council, and conducted, canvassed, and the result certified and made known as regular municipal elections within the corporation. If the result of the election is in favor of such surrender, the clerk of the village shall certify the result to the secretary of state and the recorder of the county, who shall record it in their respective offices, and thereupon the corporate powers of such village shall cease. (96 v. 21 § 4.)

How villages may surrender their corporate powers.

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SECTION 3515-1. Whenever electors of any municipality equal in number to ten percentum of those who voted at the last regular municipal election, shall file a petition with the board of deputy state supervisors of elections or board of deputy state supervisors and inspectors of election, as the case may be, of the county in which such municipality is situated, asking that the question of organizing the municipality under any one of the plans of government provided

Petition for submission of question of organizing municipality under specific plan.

in this act be submitted to the electors thereof, said board shall at once certify that fact to the council of the municipality and the council shall, within thirty days, provide for submitting such question at a special election to be held not less than sixty nor more than ninety days after the filing of such petition. Any such election shall be conducted in accordance with the general election laws of the state except as otherwise provided in this act and the council of any municipality holding such an election shall appropriate whatever money may be necessary for the proper conduct thereof. (103 v. 767.)

Municipalities may determine their officers and the method of their selection, nomination and election. The provisions of Section 7, Article 18 of the Constitution, authorizing municipal charters, are subject to provisions of Section 3, Article 18, authorizing local self-government.

Fitzgerald v. Cleveland, 88 O. S. 338.

Petition for submission of question of choosing commission to frame charter.

SECTION 2. The proposition to adopt a plan of government provided in this act shall not be submitted to the electors of any municipality less than ninety days before a regular municipal election. If in any municipality, a sufficient petition is filed, requiring that the question of choosing a commission to frame a charter be submitted to the electors thereof, the proposition to adopt a plan of government provided in this act shall not be submitted in that municipality as long as the question of choosing such commission or adopting a charter framed thereby is pending therein. In any municipality while the proposition of adopting any one of the three forms of government herein provided for its pending, then no other proposition herein provided for shall be submitted until said pending proposition is adopted or rejected. (103 v. 767.)

Form of ballot in submitting question of organizing under plan.

SECTION 3. In submitting the question of organizing under any one of the plans of government provided in this act to the electors of any municipality the board of deputy state supervisors of elections or board of deputy state supervisors and inspectors of elections, as the case may be, shall cause to be printed on the ballots the following question, "Shall the (name the plan) plan of government, as provided in chapter . . . . . section . . . . . of the General Code of Ohio be adopted? Immediately following such question there shall be printed on the ballots the following propositions in the order here set forth:

"For the adoption of the ( . . . . . ) plan."

"Against the adoption of the ( . . . . . ) plan."

When the question is on the adoption of the federal plan of government there shall also be submitted the question "For councilmen-at-large," and "For councilmen-by-wards."

There shall also be printed on the ballots at any such election the following supplementary proposition:

"For the adoption of the recall."

"Against the adoption of the recall."

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Immediately to the left of each of the propositions shall be placed a square in which the electors by making a cross (X) mark may vote for or against any such propositions.

At least thirty days prior to any such election the deputy state supervisors of elections or board of deputy state supervisors and inspectors of elections, as the case may be, of the county shall mail a copy of the proposed plan of government and the supplementary propositions as specified in this act to each elector of the municipality whose name appears on the poll or registration books of the last regular general election, and each such copy shall contain on the front cover thereof a fac-simile ballot and the date and hours of the election. Any elector may, at least forty days prior to such election file with said board a written argument of not more than three hundred words for or against any proposed plan of government or for or against any other proposition submitted and, upon payment of the cost of printing, said board shall cause the same to be printed and a copy thereof mailed with the copy of the proposed plan to each elector or otherwise distributed to every voter as far as practicable. (103 v. 767.)

Mailing  
copies of  
plan to  
electors.

Filing argu-  
ments for and  
against.

SECTION 4. If, when submitted in any municipality the proposition of adopting a plan of government provided in this act is approved by a majority of those voting thereon, such plan, together with any of the supplementary propositions that may have been approved by a majority of the electors voting thereon, shall become the charter of such municipality. When so adopted, this act shall go into effect immediately, in so far as it applies to the nomination and election of officers provided for herein and in all other respects it shall go into effect upon the first day of January following the next regular municipal election. All officers of any plan of government superseded by the adoption of any plan provided in this act, except members of the commission or council, shall continue in office and in the performance of their duties until the commission or council elected hereunder shall have provided by ordinances for the performance of the duties of such officers, whereupon the terms of all such officers shall expire and their offices be deemed abolished. (103 v. 768.)

Result of  
adoption.

SECTION 5. In any municipality where a plan of government provided in this act has been adopted any of the supplementary propositions, not previously adopted, may be independently submitted to the electors at any municipal election in the manner provided for submitting the question of adopting such plan of government. If the proposition to adopt a plan of government provided in this act is rejected by the electors of a municipality, it shall not again be submitted in that municipality within one year thereafter. (103 v. 769.)

Submission  
of sup-  
plementary  
propositions.

## MUNICIPAL CHARTER ACT.

Board shall file certificate of results of election.

SECTION 6. Immediately after an election upon the adoption of any plan of government or proposition provided herein the board of deputy state supervisors of elections or board of deputy state supervisors and inspectors of elections, as the case may be, of the county in which such election is held shall file with the secretary of state a certificate of the results thereof. (103 v. 769.)

## ARTICLE II. ELECTION PROVISIONS.

Applicable to each plan of government.

SECTION 1. Applicable to each plan. The sections of this Article shall apply to and be a part of each of the plans of government provided in this act. (103 v. 769.)

Nominations and elections.

SECTION 2. Nominations and elections. Regular municipal elections shall be held on the first Tuesday after the first Monday in November in the odd numbered years, and shall be conducted and the results canvassed and announced by the regular election authorities. Candidates to be voted for at the regular municipal elections shall be nominated as provided by law. (103 v. 769.)

How ballot shall be prepared; printing in series.

SECTION 3. Ballots. The ballots used in all elections provided for in this act shall be without party marks or designations. The names of candidates on such ballot shall be printed in rotation as follows: The ballots shall be printed in as many series as there are candidates for the office for which there is the greatest number of candidates. The whole number of ballots to be printed shall be divided by the number of series and the quotient so obtained shall be the number of ballots in each series. In printing the first series of ballots the names of candidates for each office shall be arranged in alphabetical order under the title thereof. After printing the first series the first name in each list of candidates for the various offices shall be placed last in such list and the next series printed, and the process shall be so repeated until each name in the largest list of candidates shall have been printed first an equal number of times. The ballots so printed shall then be combined in tablets, so as to have the fewest possible ballots having the same order of names printed thereon together in the same tablet. The ballots shall in all other respects conform as nearly as may be to the ballots prescribed by the general election laws of the state. (103 v. 769.)

Who declared elected.

SECTION 4. Regular election. The candidates at the regular municipal election, equal in number to the places to be filled in each office, who received the highest number of votes, shall be declared elected. In case it cannot be determined which of two or more candidates shall be declared elected, by reason of the fact that they have received the same number of votes, the election authorities shall determine by lot which of said candidates shall be declared elected. (103 v. 770.)

## MUNICIPAL CHARTER ACT.

## ARTICLE VII. INITIATIVE, REFERENDUM AND RECALL.

SECTION 1. Adoption. All laws pertaining to the initiative and referendum in municipalities shall apply to and become a part of each plan of government provided for in this act. The provisions of section 2 of this article shall be submitted to the electors of the municipality as prescribed in article I, section 3 hereof, with each and every plan of government, provided herein. Section 2 of this article shall form a part of any such plan of government and go into effect in such municipality only to the extent to which the provisions shall have been adopted as provided in article I, section 3 hereof. (103 v. 784.)

Initiative and referendum applicable to each plan.

SECTION 2. The recall. Any elective officer of any municipality may be removed from office by the qualified voters of such municipality. The procedure to effect such removal shall be as follows:

Removal by recall; procedure.

(1). A petition signed by qualified electors equal in number to at least fifteen per cent. of the total votes cast at the last preceding general municipal election, and demanding the election of a successor to the person sought to be removed, shall be filed with the deputy state supervisors of elections or board of deputy state supervisors and inspectors of elections, as the case may be, which petition shall contain a general statement in not more than two hundred words of the grounds upon which the removal is sought. The form, sufficiency and regularity of any such petition shall be determined as provided in the general election laws.

(2). If the petition shall be sufficient, and if the person or persons whose removal is sought shall not resign within five days after the sufficiency of the petition has been determined, the council shall thereupon order and fix a day for holding an election to determine the question of his removal, and for the selection of a successor to each officer named in said petition, which election shall be held not less than thirty nor more than forty days from the finding of the sufficiency of the petition. The election authorities shall cause publication of notice and all arrangements to be made for holding such election, and the same shall be conducted and the result thereof returned and declared in all respects as are the results of general municipal elections.

(3). The nominations of candidates to succeed each officer sought to be removed shall be made without the intervention of a primary election by filing with the election authorities at least twenty days prior to such special election, a petition proposing a person for each such office, signed by electors equal in number to ten per cent. of the total votes cast at the last preceding general municipal election for the head of the ticket.

(4). The ballots at such recall election shall conform to the following requirements; with respect to each person

## INCORPORATION.

whose removal is sought, the question shall be submitted: "Shall (name of person) be removed from the office of (name of office) by recall?" Immediately following each such question, there shall be printed on the ballots, the two propositions in the order set forth:

"For the recall of (name of person)".

"Against the recall of (name of person)."

Immediately to the left of the proposition shall be placed a square in which the electors, by making a cross (X) mark, may vote for either of such propositions. Under each of said questions shall be placed the names of candidates to fill the vacancy. The name of the officer whose removal is sought shall not appear on the ballot as a candidate to succeed himself.

(5). In any such election, if a majority of the votes cast on the question of removal are affirmative, the person whose removal is sought shall thereupon be deemed removed from office upon the announcement of the official canvass of that election, and the candidate receiving the plurality of the votes cast for candidates for that office shall be declared elected. The successor of any person so removed shall hold office during the unexpired term of his predecessor. The question of the removal of any officer shall not be submitted to the electors until he shall have served for at least one year of the term during which he is sought to be recalled. The method of removal herein provided is in addition to such other methods as may be provided by law. If, at any such recall election, the incumbent whose removal is sought is not recalled, he shall be repaid from the city treasury his actual and legitimate expenses for such election, but such sum shall not exceed fifty per cent. of the sum which he is by law permitted to expend as a candidate at any regular municipal election. (103 v. 785.)

## INCORPORATION.

Petition to  
township trustees for in-  
corporation.

SECTION 3526. When the inhabitants of any territory or portion thereof desire that such territory shall be incorporated into a village, they shall make application, by petition, to the trustees of the township in which the territory is located, or, if the territory is located in more than one township, to the trustees of the township in which the majority of such inhabitants reside. Such petition shall be signed by at least thirty electors of the territory, and shall be accompanied by an accurate map of the territory, and shall contain in addition to the matter hereinbefore required to be set forth in petitions to incorporate territory laid off into village lots, the request of the petitioners that an election be held to obtain the sense of the electors upon such

## INCORPORATION.

incorporation. Such petition may be presented at a regular or special meeting of the township trustees. (R. S. Sec. 1561a.)

NOTE:—Township trustees may refuse to proceed with election upon question of incorporation of village until expense of such proceeding is paid by petitioners. Atty. Gen. 1-8-1908.

SECTION 3527. When the township trustees receive the petition, with the proof that the persons who signed it are electors, and reside within the limits of the proposed incorporation, and that a majority of them are freeholders, they shall make and order that such territory shall, with the assent of the qualified voters thereof as hereinafter provided, be an incorporated village by the name specified in the petition. They shall also include in such order, a notice for the election by the qualified voters residents in the territory, at a convenient place therein to be by them named, on a day within fifteen days thereafter, to determine whether such territory shall be incorporated. The township trustees shall give ten days' notice of such election by publication in a newspaper of general circulation in such territory, and cause written or printed notices thereof, to be posted in three or more public places in such territory proposed to be incorporated. (R. S. Sec. 1561b.)

Procedure upon receipt of petition.

SECTION 3528. The township trustees shall be judges of the election, and the township clerk shall be clerk thereof. As far as practicable, the election shall be conducted in the manner prescribed for the election of township officers, and the ballot shall contain the words "For incorporation" and "Against incorporation." If a majority of the ballots cast at such election shall contain thereon the words "Against incorporation," the voters of such territory shall be deemed not to have assented to the incorporation thereof, and no further proceedings shall be had in relation thereto, but this shall not be a bar to other proceedings for the same purpose. (R. S. Sec. 1561c.)

Election; form of ballot.

NOTE:—The submission of a question of incorporation is governed by the special provisions of this section, and not by the supervisory election law.

SECTION 3529. If a majority so cast have thereon the words, "For incorporation," the township trustees shall cause to be entered on their journal, a minute of all their proceedings, the number of votes cast at the election, the number of votes cast for incorporation, and the number cast against incorporation, and they shall then declare that such territory shall from that time be deemed an incorporated village, and shall make an order declaring that such village has been incorporated by the name adopted. (R. S. Sec. 1561c.)

Proceedings if result is affirmative.

## ANNEXATION.

Transcript  
and record.

SECTION 3530. The trustees shall make a certified transcript of the journal entries of all their proceedings and a majority of them having signed it, with the original petition and plat, they shall deliver it to the county recorder, who shall forthwith make a record of the petition transcript and plat or map, in the public book of records, and preserve in his office the original papers delivered to him by the trustees, and certify thereon that the transcribed petition and map are properly recorded. When the recorder has so made such record, he shall certify and forward to the secretary of state a transcript thereof. (R. S. Sec. 1561c.)

Election of  
officers.

SECTION 3536. The first election of officers for such corporation shall be at the first municipal election after its creation, and the place of holding the election shall be fixed by the agent of the petitioners. Notice thereof, printed or plainly written, shall be posted by him in three or more public places within the limits of the corporation, at least ten days before the election. The election shall be conducted, and the officers chosen and qualified, in the manner prescribed for the election of township officers, and the first election may be a special election held at any time not exceeding six months after the incorporation, and the time and place of holding it shall be fixed by such agent, and notice thereof shall be given as is required herein for the municipal election. (R. S. Sec. 1565.)

## ANNEXATION.

Territory of  
corporations  
shall be con-  
tiguous.

SECTION 3566. When the inhabitants, generally, of a municipal corporation, the territory of which is contiguous and adjoining the territory of another municipal corporation, desire to be annexed to such other corporation, such annexation shall be effected in the manner hereinafter described. (R. S. Sec. 1606.)

NOTE:—Our law does not provide for the consolidation of two municipal corporations. One such corporation must be annexed to the other. Atty. Gen. 6-23-1909.

Submission of  
question to  
vote.

SECTION 3567. The council of the corporation proposing such annexation shall submit the question of annexation to the electors thereof, and the council of the corporation to which annexation is proposed to be made shall also submit the same question to its electors. (R. S. Sec. 1607.)

Submission by  
ordinance  
adopted.

SECTION 3568. The submission shall be by ordinance adopted by the council of each corporation at least thirty days prior to an annual election, at which election the vote shall be taken. If there shall be presented to the council of a municipality proposed to be annexed to an adjoining or contiguous municipality a petition asking for the submission of the question of annexation to a vote signed by twenty-five per cent or more of the resident electors of the territory to be annexed, and there shall ac-

Petition.

## ANNEXATION.

company said petition a certificate duly verified on belief by oath from the clerk of the board of deputy state supervisors and inspectors of election or from the clerk of the board of deputy state supervisors of election of the county in which said municipality is located, to the effect that the petition contain equal to twenty-five per cent or more of the number of votes cast at the last municipal election in the territory to be annexed, the councils of both said municipalities shall order the question of annexation to be submitted to a vote at the next general election, whether state, county or municipal, occurring more than sixty days after the filing of such petition. After said petition has been presented to council the names of signers thereto shall not be withdrawn except upon proof of fraud, accompanied by an affidavit duly verified by oath setting forth the facts substantiating the same. Each ordinance shall prescribe the manner in which the submission shall be made and shall be published in each corporation by posters or otherwise, for the period of at least twenty days prior to the time fixed for the election in such manner as the council deems most expedient.

Order by both municipalities.

Publication.

If, upon the presentation of said petition so signed together with the certificate of the clerk of the board of deputy state supervisors and inspectors of election, the council of the municipality proposed to be annexed, shall, for twenty days after the presentation of said petition and certificate, fail to pass the necessary ordinance for the purpose of causing a submission of the question of annexation to a vote of the electors of said municipality, then, upon the presentation of a copy of said petition and certificate to the county commissioners of the county in which said municipality is situated, it is hereby made the duty of said commissioners to cause the question of annexation of the said municipality to be submitted at the next general election whether state, county or municipal, occurring more than sixty days after the presentation of said petition and certificate, by passing a resolution directing the submission of the question of annexation of said municipality at which election a vote shall be taken upon the question of annexation and the resolution shall prescribe the manner in which such submission shall be made. And in the event of the county commissioners causing the question to be submitted to the electors of the municipality proposed to be annexed, the council of the municipality to which it is proposed to annex said territory shall pass the necessary ordinance as directed by this act for the purpose of submitting the question of annexation to the electors of the municipality to which it is proposed to annex. (102 v. 442.)

Procedure on failure to pass ordinance.

SECTION 3569. If a majority of the electors of each corporation, voting on the question so submitted, is in favor of annexation, the council of each shall thereupon cause the result to be certified to the other corporation. If the

Duty of council.

## ANNEXATION.

council of the municipality proposed to be annexed does not within twenty days after the election cause the result to be certified to the other municipality it is hereby made the duty of the county commissioners of the county in which such municipality is located to certify the result to such municipality. (101 v. 244.)

Commis-  
sioners.

SECTION 3570. The council of each corporation shall then appoint, by resolution or ordinance, three commissioners to arrange the terms and conditions of annexation, and report the result of their action to the council of their respective corporations. And if the council of the municipal corporation proposed to be annexed shall fail to appoint such commission within thirty days from the time the result of the election is certified, then the county commissioners of the county in which said municipal corporation, is situated shall appoint such commissioners for said municipal corporation, and the duties of the commissioners thus appointed shall be the same as those of commissioners appointed by the council except that they shall make their report to the county commissioners. In the event the commissioners of the municipal corporation proposed to be annexed shall fail to agree to arrange terms and conditions of annexation with the annexation commissioners of the annexing municipality on or before the first day of May following the election in favor of such annexation, then, the county commissioners of the county in which such municipal corporations are situated shall upon complaint of the commissioners of the annexing corporation appoint commissioners for said municipal corporation to be annexed, which commissioners shall be residents of the territory to be annexed, and the duties of the commissioners thus appointed shall be the same as those of commissioners appointed by the council except that they shall make their report to the county commissioners. (102 v. 442.)

Failure to  
arrange  
terms.

Report of  
commis-  
sioners,  
approval,  
etc.

SECTION 3571. When the report of the commissioners is approved by ordinances passed by each corporation, certified copies thereof, signed by the presiding officer of the council and the respective auditors or clerks of each corporation, and authenticated by the corporate seal of each, if any there be, shall be filed in the office of the auditor or clerk of the corporation to which annexation is proposed to be made. Should the council of the municipal corporation proposed to be annexed fail, for a period of three consecutive weeks after the report of the commissioners is filed with it, to approve the same, it is hereby made the duty of the county commissioners of the county in which said municipal corporation is located to act for said corporation and they are hereby, for that purpose invested with all the powers conferred upon the council in this section and in the event that the report is made to the county commissioners as provided in the next preceding section, then

Existing  
contracts.

## DETACHMENT OF TERRITORY.

said county commissioners are authorized to approve said report by resolution; provided further that when any municipal corporation is annexed, all contracts existing and in force in any form as valid and subsisting obligations upon any such municipal corporation at the time such annexation is consummated, shall not extend beyond the original limits of such annexed municipal corporation by virtue of such annexation. (101 v. 244.)

## DETACHMENT OF TERRITORY.

SEC. 3577-1. The inhabitants residing within any portion of a village, such portion being contiguous to an adjoining township, and comprising not less than one thousand five hundred acres of land, may file with the board of deputy state supervisors and inspectors of elections in said county a petition requesting that an election be held to obtain the sense of the electors residing within said portion of such village upon the question of the detachment of such portion from such village, or, upon the question of the detachment of such portion from said village and the erection of such detached portion into a new township. Said petition shall contain an accurate description of the territory sought to be detached, together with an accurate map or plat thereof, and, if the erection of a new township is also sought, the name proposed for such new township; also, the name of a person to act as agent of the petitioners, and shall be signed by not less than twenty-five electors residing within the territory sought to be detached. Within ten days after the filing of said petition with the board of deputy state supervisors and inspectors of elections, said board shall determine whether said petition conforms to the requirements thereof. If it does not, no further action shall be taken thereon. If it does, said board shall order an election, as prayed for in said petition, which election shall be held at a convenient place within the territory sought to be detached on a day named by said board, which day shall be not less than ten days, nor more than twenty days, thereafter. Said board shall thereupon give ten days' notice of such election by publication in a newspaper of general circulation in said territory, and shall cause written or printed notices thereof to be posted in three or more public places therein. Said election shall be conducted as other elections are conducted, and the judges and clerks thereof shall be designated by said board of deputy state supervisors and inspectors of elections. The ballots shall contain the words "for detachment," and "against detachment." If a majority of the ballots cast at such election shall contain thereon the words "against detachment," no further proceedings shall be had in relation thereto, but this shall not be a bar to other proceedings for the same purpose. If a majority of the votes cast have thereon the words "for detachment," the result of such election,

Petitions to submit question of detachment of territory.

When election shall be ordered.

Form of ballot; certification of result to county recorder; transcript to secretary of state.

## DETACHMENT OF TERRITORY.

together with the original petition and plat and a transcript of all the proceedings of said board of deputy state supervisors and inspectors of elections in reference thereto shall be certified by said board and delivered to the county recorder, who shall forthwith make a record of the petition, and plat, and transcript of all the proceedings of the board of deputy state supervisors and inspectors of elections, and the result of the election, in the public book of records, and preserve in his office the original papers delivered to him by said board of deputy state supervisors and inspectors of elections, and certify thereon that the transcribed petition and map are properly recorded. When the recorder has so made such record, he shall certify and forward to the secretary of state, a transcript thereof. The detachment of said territory from said village, shall thereupon be complete, and, if said petition included a request that such territory be erected into a new township, said territory shall thereupon constitute and be a new township, under the name and style specified in said petition. All expense involved in the holding of said election, and in the filing, recording and transcribing of the records herein provided for, shall be defrayed by the petitioners, and said board of deputy state supervisors and inspectors of elections, and said county recorder may require the payment thereof in advance as a condition precedent to the taking by them, or either of them, of any step herein provided for. (106 v. 301.)

When detachment complete.

Apportionment of property funds and indebtedness.

SEC. 3577-2. When territory is so detached, an apportionment of the property, funds and indebtedness of said village, shall be made between said village and said detached territory upon the basis of the respective tax duplicates in said village after such detachment, and in said detached territory. All water pipes and sewers laid either in said village or in said detached territory, shall be considered as property within the meaning of that term, as herein used, in so far as said water pipes or sewers have been paid for out of the general funds of the village. If the village authorities and the public authorities in control of said detached territory are unable to agree upon such apportionment, it shall be made by the probate court, upon application by either the authorities of the village or the authorities in control of the detached territory. (106 v. 301.)

Additional method.

SEC. 3577-3. The method of detachment herein provided for shall be in addition to all other methods provided by law. (106 v. 301.)

## INCORPORATION FOR POLICE PROTECTION.

Incorporation of territory surrounding summer resort; election; notice.

SECTION 3545. Any territory requiring police protection and containing a population of not less than fifty persons and immediately surrounding a summer resort, park, lake or picnic ground, kept regularly for such outing

## BONDS TO CONSTRUCT ELECTRIC RAILWAYS.

and pleasure, may incorporate by setting up notices of an election in three of the most public places in the territory proposed to be included in the corporation signed by five citizens and electors of the territory. Such notices shall be posted at least ten days before the election, stating time and place where the election shall be held, and shall contain an accurate description of the territory proposed to be taken into the corporation. (R. S. Sec. 1566a.)

SECTION 3546. The election shall as far as practicable be conducted in the manner prescribed for the election of township officers. The electors present shall choose three judges and two clerks from the electors present to act as judges and clerks of such election, and the ballot shall contain the words: "For incorporation" and "Against incorporation." If the majority of the ballots cast at such election contain the words "For incorporation," it shall be deemed that the citizens of such designated territory have assented to such incorporation. If the majority of the ballots cast at such election contain the words "Against incorporation," it shall be deemed that the people of such designated territory have not assented to the incorporation thereof. All laws governing the creation and regulation of incorporated villages shall have full force and effect insofar as they are not inconsistent and do not conflict with the provisions of this chapter. (R. S. Sec. 1566a.)

Conduct of election; ballots.

## BONDS TO CONSTRUCT AND EQUIP ELECTRIC RAILWAYS AND TERMINALS ON LEASED CANAL AND OTHER PROPERTY.

SECTION 3697-1. For the purposes and in the manner and in the amounts hereinafter specified, when it deems necessary, the council of any municipal corporation which has leased from the state of Ohio any canal lands or property, by affirmative vote of not less than a majority of the members elected thereto, by ordinance may issue and sell bonds in such amounts and denominations, for such period of time at such rate of interest not exceeding six per cent, and in the manner as provided by law, to provide for the construction in, through, under, on or upon such canal lands, or part thereof, together with streets and lands outside of such canal lands, whether within or without the limits of such municipal corporation, of a union depot and terminals for interurban, suburban, street and other electric railways, or for the construction of interurban or suburban or street or rapid transit electric railways, or for any combination of two or more of such purposes. (103 v. 848.)

Power to issue bonds to construct and equip electric railways and terminals on leased canal and other property.

SECTION 3697-2. The aggregate amount of such bonds or total indebtedness created under the authority of this act shall not be limited by the provisions of any act or statute of Ohio or law except by the limitation herein set forth, but such aggregate or total indebtedness shall not exceed two

Limitation.

## SALE OR LEASE OF LAND TO RAILWAY COMPANY.

per cent of the total value of all property in such municipal corporation as listed and assessed for taxation. (103 v. 848.)

Provisions shall not be made for issue of bonds until approved by electors at general or special election.

SECTION 3697-3. No ordinance providing for the issuance of any of said bonds shall be passed until the approval of the electors of the corporation is obtained at a general election or at a special election called by the city council for the purpose, and held not less than sixty (60) days after the passage of the following described resolution by council. When council deems it necessary to issue any of said bonds, it shall first by resolution, passed by an affirmative vote of not less than a majority of all the members elected thereto, declare it necessary to issue and sell such bonds and shall state in the resolution the purpose and amount of the proposed issue and the date upon which the question of issuing and selling such bonds shall be submitted to the electors of the corporation. Council shall then cause a copy of such resolution to be certified to the deputy state supervisors of elections of the county in which the corporation is situated, or their successors, and said deputy state supervisors or their successors shall prepare the ballots and make the necessary arrangements for the submission of such question to the electors of such municipal corporation at the time fixed in the resolution. The election shall be held at the regular place or places of voting in the municipality and shall be conducted, canvassed and certified in like manner, except as otherwise provided by law as regular elections in the municipal corporation for the election of officers thereof. Thirty days' notice of the election shall be given in one or more newspapers printed in the municipality once a week for four consecutive weeks prior thereto, stating the amount of bonds to be issued, and the purpose for which they are to be issued and the time and place of holding the election. If a majority of the voters voting at such election upon the question of issuing the bonds, vote in favor thereof, the bonds shall be issued. Those who vote in favor of the proposition shall have written or printed on their ballots "for the issue of bonds," and those who vote against it shall have written or printed on their ballots "against the issue of bonds." The maximum indebtedness which may be created under the provisions of this act shall not exceed the aggregate amounts specified in such resolutions and thus submitted to the electors. (103 v. 848.)

## SALE OR LEASE OF LAND TO RAILWAY COMPANY.

Procedure when for passenger railroad station.

SECTION 3700. When a municipal corporation owns real estate suitable for the location of a passenger railroad station, and council by ordinance declares that it is necessary that such land be devoted to such use, the municipality may sell, lease, or exchange such land to such railroad or

## GRANT OF FRANCHISES.

railroads for such purpose in the manner provided in the next section. (98 v. 165 § 24.)

SECTION 3701. An ordinance authorizing the mayor of the municipality to deed or lease the land shall be passed. In the ordinance council shall fix by metes and bounds the amount of land to be sold, leased or exchanged, the quantity of interest sold, leased or exchanged, and the consideration to be paid or exchanged therefor by such railroad or railroads, and in the ordinance shall call thereon a special election, to be held upon a day fixed by such ordinance, not less than thirty days from the passage thereof. (98 v. 165 § 24.)

What ordinance shall contain; election.

SECTION 3702. A majority of all the votes cast on such proposition shall be necessary to its ratification. When so ratified, the ordinance shall be effective, and the mayor shall proceed to execute a deed of conveyance or lease of the property as therein provided. In holding such special election, the provisions of law for submission of the question of issuing bonds in excess of four per cent of the taxable property of the municipality, shall apply. (98 v. 165 § 24.)

How such election conducted.

## GRANT OF FRANCHISES.

SECTION 3772. If, within thirty days after the passage of an ordinance granting a franchise, extension or renewal thereof, to a street railroad, there is presented to the council or filed with its clerk a written petition signed by fifteen per cent of the qualified electors of such municipality, to be determined by the highest number of votes cast for the mayor of the municipality at the last preceding municipal election, requesting such ordinance to be submitted to a vote of the electors thereof, the ordinance shall not become operative until it has been so submitted and has received a majority of the votes cast thereon. (99 v. 104 § 30a.)

When franchise shall be submitted to vote.

SECTION 3773. The council by resolution shall provide that such vote be taken at a special election or at the next municipal election, and shall cause a copy of such resolution to be certified to the board of deputy state supervisors of the county in which such municipal corporation is situated, which board shall thereupon prepare the ballots and make all other necessary arrangements for the submission of such question at the time fixed in the resolution. Such election shall be held at the regular place or places of voting in such municipality and shall be conducted, canvassed and certified in the same manner as the election of officers thereof. (99 v. 104 § 30-a.)

How the election shall be conducted.

SECTION 3774. Thirty days' notice of such submission shall be given by the mayor of the municipality in two newspapers of opposite politics printed therein, once a week for four consecutive weeks, stating the object and purpose, and the time and place of holding such election. Those voting in favor of the proposition shall have written or printed on their ballots the words "For the franchise," and those

Notice of the election; form of ballot.

voting against it shall have written or printed on their ballots the words "Against the franchise." (99 v. 104 § 30-a.)

### ELEVATED RAILROADS.

Company to notify authorities of acceptance or rejection of grant.

SECTION 9148. Every railroad, street railroad company, suburban railroad company or interurban railroad company, to whom a grant has been made as above provided shall notify in writing the authorities making the grant of its rejection or acceptance of the grant at a time fixed by them at the time of making the grant. If after a grant has been made as above provided, and accepted by any railroad, street railroad company, suburban railroad company or interurban railroad company, within sixty days after such acceptance there is filed with the mayor of the city making the grant a petition protesting against it and signed by such a number of the electors of the city qualified to vote at the last preceding general election, as equals ten per cent of the number of votes cast for mayor at the last preceding election for mayor, he shall certify such fact to the proper election officials. (R. S. Sec. 3283d.)

Submission of grant to electors.

SECTION 9149. The officials in charge of such general election, in accordance with the statutes relating to elections, shall arrange, provide for and conduct the submission of such question to such electors. The question whether the grant shall be made shall be submitted to the electors of such city at the next succeeding general election occurring more than thirty days after the expiration of such sixty days. The ballots at such election if the grant be for the construction of elevated tracks shall read "Elevated Railroad Grant — Yes". "Elevated Railroad Grant — No". If the grant be for the construction of underground tracks they shall read "Underground Railroad Grant — Yes". "Underground Railroad Grant — No". If the grant be for the construction of partly elevated and partly underground tracks, they shall read "Elevated and Underground Railroad Grant — Yes", "Elevated and Underground Railroad Grant — No". If at such election a majority of the votes cast on such question be against such grant, it shall be ineffective and void. (R. S. Sec. 3283d.)

### BONDS FOR GAS WORKS.

Bonds for improving natural gas works.

SECTION 3933. The council of a municipal corporation may issue and sell bonds in the manner provided by law, at a rate of interest not to exceed six per cent, when such council by an affirmative vote of not less than two-thirds of the members elected or appointed thereto by resolution or ordinance, deems it necessary for the purpose of extending, enlarging, improving, repairing or securing a more complete enjoyment of any natural gas works owned by such corporation. (95 v. 478 § 1.)

## BONDS FOR GAS WORKS.

SECTION 3934. Before such bonds are issued, the question of issuing them shall be submitted to the voters of the municipal corporation at a general or special election, when the council thereof, by resolution or ordinance, passed by an affirmative vote of not less than two-thirds of all the members elected or appointed thereto, declares it necessary to issue and sell bonds for any of such purposes. It shall fix by such resolution or ordinance the date upon which the question shall be so submitted and shall cause a copy of such resolution or ordinance to be certified to the deputy state supervisors of the county in which such municipal corporation is situated. (97 v. 237 § 2.)

Question of issue to be submitted to vote.

SECTION 3935. Thereupon the deputy state supervisors shall prepare the ballots and make other necessary arrangements for the submission of the question to the electors of the municipal corporation at the time fixed in such resolution or ordinance. The election shall be held at the regular place or places of voting in the municipal corporation, and shall be conducted, canvassed and certified in the same manner, except as otherwise provided by law, as for the election of municipal officers. (97 v. 237 § 2.)

Conduct of the election.

SECTION 3936. When a special election for such purpose is held in a municipal corporation divided into wards, there may be but one voting place in each ward, which shall be designated by the deputy state supervisors of elections, and the notice hereinafter provided for shall designate the voting places in each ward. In cities in which reigstration is required, if but one voting place is designated in each ward, certificates of removal shall not be necessary, except where transfers are required from one ward to another, and the board of deputy state supervisors of the county shall issue removal certificates. (97 v. 237 § 2.)

Voting precincts; transfers.

SECTION 3937. Fifteen days' notice of the submission shall be given in one or more newspapers printed in the municipal corporation once a week for two consecutive weeks, stating the amount of bonds to be issued, the purpose for which they are to be issued, and the time and place of holding the election. If no newspaper is printed therein, the notice shall be posted in a conspicuous place and published once a week for two consecutive weeks in a newspaper of general circulation therein. (97 v. 237 § 2.)

Notice of the election.

SECTION 3938. If two-thirds of the voters voting at such election upon the question of issuing the bonds, vote in favor thereof, then, and not otherwise, the bonds shall be issued, and a tax may be levied for the purpose of paying the interest and principal upon such bonds. Those who vote in favor of the proposition shall have written or printed on their ballots, "For the issue of bonds"; those who vote against it shall have written or printed on their ballots the words, "Against the issue of bonds." (97 v. 237 § 2.)

Result of election; form of ballot.

## DEFICIENCY BONDS.

Deficiency  
bonds;  
limitation.

SECTION 3931. Council may issue deficiency bonds in such amount and denominations, for such periods of time, not to exceed fifty years and at such rate of interest not to exceed six per cent as it deems best when in the opinion of council it is necessary to supply a deficiency in the revenues of the corporation. The total amount of deficiency bonds issued by a corporation, outstanding at any time, shall not exceed one per cent of the total value of all property in the corporation as listed and assessed for taxation. The issuance of such bonds shall be approved by the votes of two-thirds of all the members elected to council, and approved by the votes of two-thirds of all the electors of the corporation voting upon such question at a regular or special election to be provided for by council. (96 v. 53 § 99.)

## BOND ISSUE.

Vote for ad-  
ditional bonds.

SECTION 3942. In addition to the authority granted in section one (1) of this act and supplementary thereto, the council of a municipal corporation, whenever it deems it necessary, may issue and sell bonds in such amounts, or denominations, and for such period of time and rate of interest not exceeding six per cent per annum, as it may determine upon for any of the purposes set forth in said section one, upon obtaining the approval of the electors of the corporation at a general or special election in the following manner. (102 v. 264.)

Action of  
council  
necessary.

SECTION 3943. The council, by resolution passed by an affirmative vote of not less than two-thirds of all the members elected or appointed thereto, shall declare it necessary to issue and sell bonds of the corporation. Such resolution shall state the purpose and amount of said issue, and shall fix a date upon which the question of issuing and selling such bonds shall be submitted to the electors of the corporation. Council shall then cause a copy of such resolution to be certified to the deputy state supervisors of the county in which the corporation is situated. (102 v. 264.)

Duty of  
deputy state  
supervisors.

SECTION 3944. The deputy state supervisors shall prepare the ballots and make the necessary arrangements for the submission of such question to the electors of such municipal corporation at the time fixed in the resolution. (102 v. 264.)

Election.

SECTION 3945. The election shall be held at the regular place or places of voting in the municipality, and be conducted, canvassed and certified in like manner, except as otherwise provided by law, as regular elections in the municipal corporation for the election of officers thereof. (102 v. 264.)

Notice.

SECTION 3946. Thirty days' notice of the election shall be given in one or more newspapers printed in the municipality once a week for four consecutive weeks prior thereto, stating the amount of bonds to be issued, and the

## RAPID TRANSIT COMMISSIONERS.

purpose for which they are to be issued, and the time and place of holding the election. If no newspaper is printed therein, the notice shall be posted in a conspicuous place and published once a week for four consecutive weeks in a newspaper of general circulation in the township or municipal corporation. (102 v. 264.)

SECTION 3947. If two-thirds of the voters voting at such election upon the question of issuing the bonds vote in favor thereof, the bonds shall be issued. Those who vote in favor of the proposition shall have written or printed on their ballots, "For the issue of bonds"; and those who vote against it shall have written or printed on their ballots, "Against the issue of bonds." (102 v. 264.)

Two-thirds  
vote required.

## RAPID TRANSIT COMMISSIONERS.

SECTION 4000-22. When the board of rapid transit commissioners deems it necessary to issue bonds secured by the general credit of the municipality or to levy a tax for the purpose of carrying into effect the powers herein conferred the board shall, by written resolution, so declare its judgment and state therein the amount of bonds to be issued or the tax to be levied for such purposes and transmit the resolution to the city council, which may authorize the issuance of such bonds or levy a tax for the aforesaid purposes. Provided, however, that the total aggregate amount of bonds issued without being first submitted to a vote of the people shall not exceed one hundred and fifty thousand dollars. If the council fails to enact legislation for the issuance of bonds at its next regular or special meeting after the resolution has been received by the clerk of council, it shall then be the duty of council at its next regular or special meeting by ordinance to submit the question of the issuance of the bonds to a vote of the qualified electors of the municipality and the clerk of council shall file the ordinance with the board of deputy state supervisors of elections of the county; said board of deputy state supervisors shall then submit the question of the issuance of such bonds to the qualified electors of the city at either a special or a general election, as the ordinance may specify. Thirty days' notice of the election shall be given in one or more newspapers printed in the municipality once a week for four consecutive weeks prior thereto, stating the amount of bonds to be issued and the purpose for which they are to be issued, and the time of holding the election. If a majority of the voters voting at such election upon the question of issuing the bonds vote in favor thereof it shall then become the duty of the council of the city to enact within ninety days thereafter all legislation necessary to carry into effect the will of the majority of the voters voting at such election and bonds shall be issued from time to time as they may be needed. (106 v. 289.)

Issue of  
bonds; pro-  
cedure;  
election.

## PARK COMMISSION.

Power to lease depots, terminals, etc.; submission of question.

SECTION 4000-27. Said board of rapid transit commissioners may grant to any corporation organized for street railway or interurban railroad purposes the right to operate by lease or otherwise such depots, terminals and railways upon such terms and conditions as said board shall be authorized by ordinance to agree upon with such corporation, subject to the approval of a majority of the electors of the municipal corporation voting thereon. Said board shall certify said lease or agreement to the board of deputy state supervisors of election of the county, and said board of deputy state supervisors shall then submit the question of the approval of said lease or agreement to the qualified electors of the city at either a special or general election as the ordinance may specify. Thirty days' notice of the election shall be given in one or more of the newspapers printed in the municipality once a week for four consecutive weeks prior to the time of holding said election as heretofore specified, setting forth the terms of said lease or agreement and the time of holding the election. On the approval by a majority of the voters voting at such election said corporation is invested with the power to operate such depots, terminals and railways as provided in said lease or agreement, and corporations organized under the laws of Ohio for street railway or interurban railroad purposes are hereby invested with power to lease and operate such depots, terminals and railways. (106 v. 289.)

## PARK COMMISSION.

Board of park commissioners; election.

SECTION 4053. When five per cent of the qualified electors of a city petition the board of deputy state supervisors of elections of the county for the privilege of determining by ballot where there shall be a board of park commissioners, with the powers hereinafter provided for, such board shall submit at the next general election held within such city, or at a special election, if the petition requests a special election the questions presented in the petition, to the electors of the municipality. Such special election shall be held at the usual place or places for holding municipal elections and shall be governed by the same rules, regulations and laws as govern the holding of municipal elections. (99 v. 440 § 1.)

Appointment, term, compensation, vacancy.

SECTION 4054. If a majority of the electors voting at such election on the question vote in favor of the appointment of a board of park commissioners, the mayor shall immediately appoint three electors of the city as members of such board, to be known as the board of park commissioners. Such members shall be appointed for terms of one, two and three years, respectively, and their successors shall be appointed for terms of three years. In case of the death or resignation of a member of such board, the mayor shall immediately appoint a successor to fill the vacancy for the unexpired term. The members of the

## HEARSE OR VAULT.

board shall serve without compensation. The mayor may remove, with the consent of the city council, a majority of the members elected thereto concurring, any member of such board for incompetency or official misconduct. (99 v. 441 § 2.)

SECTION 4064. When the board of park commissioners deems it necessary to issue bonds or to levy a tax for the purpose of carrying into effect the powers herein conferred, the board shall by written resolution so declare its judgment and state therein the amount of bonds to be issued or the tax to be levied for such purposes and transmit the resolution to the city council. If the council fails to enact legislation for the issuance of such bonds or the levying of such tax, within ninety days after the time the resolution was received by the council, the question of the issuance of the bonds or the levy of the tax shall be submitted to a vote of the qualified electors of the city, and the board of park commissioners shall file the resolution and request with the board of deputy state supervisors of elections of the county. Such board of deputy state supervisors shall then submit the question of the issuance of such bonds or the levying of such tax, or both, to the qualified voters of the city, at either a special or general election as the resolution and request may specify, to be held in the manner provided by law for voting on the question of the issue of bonds in excess of the limit fixed by law, except as otherwise provided herein. (99 v. 442 § 6.)

Bond issue;  
vote for.

SECTION 4065. If a majority of the electors voting on such question vote in favor thereof, it shall become the duty of the council of the city to enact, within ninety days thereafter, all legislation necessary to carry into effect the will of the majority of the voters at such election. (99 v. 442 § 6.)

Duty of  
council after  
vote is  
taken.

## HEARSE OR VAULT.

SECTION 4180. The council of a village may levy a tax in such amount as it determines, either to purchase a hearse or to construct a vault for the dead, for the use of the village. The question of levying such tax, for either or both purposes, and the amount asked therefor, shall be separately submitted to the electors of the corporation, at a general election, twenty days' notice thereof having been previously given, by posting in at least three public places in the village. The notice shall state specifically the amount to be raised, and for what purpose. If a majority of all the votes cast at the election is in favor of either or both propositions, they shall be considered adopted, and the tax herein provided for authorized. The hearse and vault shall be under the control of the trustees of cemeteries of the village, where there is such board, otherwise under the control of the council or person appointed by it. (R. S. Sec. 2556.)

Villages may  
tax for  
hearse or  
vault on  
vote of  
electors.

## INITIATIVE AND REFERENDUM.

Form of  
ballot.

SECTION 4181. The electors voting at such election shall have placed on their ballots the words, "Tax for Hearse — Yes", or "Tax for Hearse — No", and upon the same ballot, "Tax for Vault — Yes", or "Tax for Vault — No", and may vote for one proposition and against the other, or for or against both. (R. S. Sec. 2557.)

## INITIATIVE AND REFERENDUM.

Initiative and  
referendum in  
municipalities.

SECTION 4227-1. Ordinances and other measures providing for the exercise of any and all powers of government granted by the constitution or now delegated or hereafter delegated to any municipal corporation, by the general assembly, may be proposed by initiative petition. Such initiative petition must contain the signatures of not less than ten per centum of the electors of such municipal corporation.

Initiative  
petition.

When there shall have been filed with the city auditor if it be a city, or village clerk if it be a village, a petition signed by the aforesaid required number of electors proposing an ordinance or other measure, said city auditor or village clerk shall, after ten days, certify the petition to the board of deputy state supervisors of elections of the county wherein such municipality is located. Said board shall submit such proposed ordinance or measure for the approval or rejection of the electors of such municipal corporation at the next succeeding regular or general election, in any year, occurring subsequent to forty days after the filing of such initiative petition. No ordinance or other measure proposed by initiative petition and approved by a majority of the electors voting upon the same in such municipal corporation shall be subject to the veto of the mayor. (104 v. 238.)

Measure so  
passed not  
subject to  
veto.When ordi-  
nances shall  
take effect.

SECTION 4227-2. Any ordinance, or other measure passed by the council of any municipal corporation shall be subject to the referendum except as hereinafter provided. No ordinance or other measure shall go into effect until thirty days after it shall have been filed with the mayor of a city or passed by the council in a village, except as hereinafter provided.

Referendum  
petition.

When a petition signed by ten per cent of the electors of any municipal corporation shall have been filed with the city auditor or village clerk in such municipal corporation, within thirty days after any ordinance, or other measure shall have been filed with the mayor, or passed by the council of a village, ordering that such ordinance or measure be submitted to the electors of such municipal corporation for their approval or rejection, such city auditor or village clerk shall, after ten days, certify the petition to the board of deputy supervisors of elections of the county wherein such municipality is situated and said board shall cause to be submitted to the electors of such municipal corporation for their approval or rejection, such ordinance, or measure

## INITIATIVE AND REFERENDUM.

at the next succeeding regular or general election, in any year occurring subsequent to forty days after the filing of such petition.

No such ordinance or measure shall go into effect until approved by the majority of those voting upon the same. Nothing in this act shall prevent a municipality after the passage of any ordinance, or other measure from proceeding at once, to give any notice, or make any publication, required by such ordinance or other measure. (104 v. 239.)

SECTION 4227-3. Whenever the council of any municipal corporation is by law required to pass more than one ordinance or other measure to complete the legislation necessary to make and pay for any public improvement, the provisions of this act shall apply only to the first ordinance or other measure required to be passed and not to any subsequent ordinances and other measures relating thereto. Ordinances or other measures providing for appropriations for the current expenses of any municipal corporation, or for street improvements petitioned for by the owners of a majority of the feet front of the property benefited and to be especially assessed for the cost thereof as provided by statute, and emergency ordinances or measures necessary for the immediate preservation of the public peace, health or safety in such municipal corporation, shall go into immediate effect. Such emergency ordinances or measures must, upon a yea and nay vote, receive the vote of two-thirds of all the members elected to the council or other body corresponding to the council of such municipal corporation, and the reasons for such necessity shall be set forth in one section of the ordinance or other measure. The provisions of this act shall apply to pending legislation providing for any public improvement. (103 v. 212.)

To what ordinance or measure act applies.

SECTION 4227-4. Any initiative or referendum petition may be presented in separate parts but each part of any initiative petition shall contain a full and correct copy of the title and text of the proposed ordinance or other measure and each part of any referendum petition shall contain the number and a full and correct copy of the title of the ordinance or other measure sought to be referred. Each signer of any such initiative or referendum petition must be an elector of the municipal corporation in which the election, upon the ordinance or measure proposed by such initiative petition or the ordinance or measure referred by such referendum petition, is to be held, and shall place on such petition, after his name, the date of signing, his place of residence including street and number, if any, and the ward and precinct. Each part of such petition shall contain the affidavit of the person soliciting the signatures to the same, which affidavits, shall contain a statement of the number of signers of such part of such petition and shall state that to the best of his knowledge and belief each of the signatures contained on such part is the genuine signature

Petitions may be presented in separate parts; signing affidavit.

## NOTICE.

of the person whose name it purports to be, and believes that such persons are electors of the municipal corporation and that they signed such petition with knowledge of the contents thereof.

Ordinance not void because of insufficiency of petition.

The petitions and signatures upon such petitions shall be prima facie presumed to be in all respects sufficient. No ordinance or other measure submitted to the electors of any municipal corporation and receiving an affirmative majority of the votes cast thereon, shall be held ineffective or void on account of the insufficiency of the petitions by which such submission of the same shall have been procured, nor shall the rejection by a majority of the votes cast thereon, of any ordinance or other measure, submitted to the electors of such municipal corporation, be held invalid for such insufficiency. The basis upon which the required number of petitioners in any case shall be determined shall be the total number of votes cast for the office of mayor at the last preceding election therefor. (103 v. 212.)

How number of petitioners determined.

When ordinance or measure submitted at special election.

SECTION 4227-5. Whenever twenty per cent of the electors of any municipality file a petition with the city auditor if it be a city, or village clerk, if it be a village, proposing or against an ordinance or other measure, requesting in the petition that the ordinance or measure be submitted to the electors of the municipality at a special election, the auditor or village clerk, after ten days, shall certify the same to the board of deputy state supervisors of elections who shall submit the same at a special election to be held on the fifth Tuesday after the petition is filed. The petition shall not be submitted at a special election if a regular or general election will occur not later than ninety days after the petition is filed but shall be submitted at the regular or general election. (104 v. 239.)

Copy of proposed ordinance or measure filed with auditor or clerk.

SECTION 4227-6. Whoever seeks to propose an ordinance or measure in a municipality by initiative petition or file a referendum petition against any ordinance or measure shall before circulating such petition file a duly verified copy of the proposed ordinance or measure with the city auditor, if it be a city, or with the village clerk, if it be a village. (104 v. 240.)

Words which shall be printed in red.

SECTION 4227-7. At the top of each part of the petition the following words shall be printed in red:

## NOTICE.

Whoever knowingly signs this petition more than once, signs a name other than his own, or signs when not a legal voter is liable to prosecution. (104 v. 240.)

Designating committee as filing petition.

SECTION 4227-8. The petitioners may designate in any initiative or referendum petition a committee of not less than three of their number, who shall be regarded as filing the petition. After a petition has been filed with the city auditor or village clerk it shall be kept open for public in-

## NOTICE.

spection for ten days. If, after a petition proposing an ordinance or other measure has been duly filed with the city auditor or village clerk as the case may be, the proposed ordinance or other measure, or a substitute for the proposed ordinance or measure approved by the committee herein mentioned, is passed by the legislative body of the municipality, the majority of the committee shall notify the board of deputy state supervisors of elections in writing and such proposed ordinance or measure shall not be submitted to a vote of the electors.

When ordinance or measure shall not be submitted.

If, after a duly verified referendum petition has been filed against any ordinance or measure, the legislative body of the municipality repeals such ordinance or measure, or such ordinance or measure is held to be invalid, the board of elections shall not submit such ordinance or measure to a vote of the electors. (104 v. 240.)

SECTION 4227-9 (1) The circulator of an initiative and referendum petition, or his agent, shall within five days after such petition is filed with the city auditor or village clerk, file a sworn itemized statement showing in detail:

Sworn itemized statement by circulator.

(a) All moneys or things of value paid, given or promised for circulating such petition.

(b) Full names and addresses of all persons to whom such payments or promises were made.

(c) Full names and addresses of all persons who contributed anything of value to be used in circulating such petitions.

(d) Time spent and salaries earned while circulating or soliciting signatures to petitions by persons who were regular salaried employes of some person and whom said employer authorized to solicit signatures for or circulate said petition as a part of their regular duties.

(2) The statement provided for in this section shall not be required from persons who take no other part in circulating a petition than making affidavits to parts of the petition and soliciting signatures to the same.

(3) Such statement shall be open to public inspection for a period of one year. (104 v. 240.)

SECTION 4227-10. Whoever directly or indirectly:

(1) Wilfully misrepresents the contents of any initiative or referendum petition; or

(2) Pays or offers to pay any elector anything of value for signing an initiative or referendum petition; or

(3) Promises to help another to obtain appointment to any office provided for by the constitution or laws of Ohio or by the ordinances of any municipality, position or employment in the services of the state or any political subdivision thereof as a consideration for obtaining signatures to an initiative or referendum petition; or

(4) Obtains signatures to any initiative or referendum petition as a consideration for the assistance or promise of assistance of another person in securing an appoint-

Practices prohibited relative to I. & R. petitions.

## SANITARY PLANT.

ment to any office or position provided for by the constitution or laws of Ohio or by the ordinance of any municipality therein; or employment in the service of the state or any subdivision thereof; or

(5) Alters or adds to or erases any signatures or names, on the parts of a petition after such parts have been filed with the auditor or village clerk; or

(6) Fails to file the sworn itemized statement required in section 4227-9 of the General Code, shall upon conviction be fined not less than one hundred dollars nor more than five hundred dollars. (106 v. 443.)

SECTION 4227-11. (1) Whoever knowingly signs an initiative or referendum petition more than once, signs a name other than his own, or signs when not a legal voter, shall, upon conviction be fined not more than one hundred dollars.

(2) Whoever accepts anything of value for signing an initiative or referendum petition shall upon conviction be fined not to exceed twenty-five dollars.

(3) Whoever sells, purchases, steals, attempts to steal, or wilfully destroys or mutilates an initiative or referendum petition which is being or has been lawfully circulated shall upon conviction be fined not more than five hundred dollars or imprisoned in the penitentiary for not more than five years.

(4) Whoever directly or indirectly, by intimidation or threats, influences or seeks to influence any person to sign or abstain from signing, or to solicit signatures to or abstain from soliciting signatures to an initiative or referendum petition shall, upon conviction, be fined not more than one hundred dollars. (104 v. 241.)

SECTION 4227-12. The provisions of sections 4227-1 to 4227-13 inclusive shall not apply to any municipality that has or may hereafter adopt its own charter which contains an initiative and referendum provision for its own ordinances and other legislative measures. (104 v. 241.)

SECTION 4227-13. Corrupt practices as defined in this act shall be punished as provided in section 13323-1 of the General Code. (For penalty see page 271.)

## SANITARY PLANT.

SECTION 4467. The term "sanitary plant", as used herein, shall mean a structure with necessary land, necessary fixtures, appliances and appurtenances required for the treatment, purification and disposal in a sanitary manner of either or both the liquid or solid wastes of the municipality. (R. S. Sec. 2143.)

SECTION 4468. Upon the recommendation of the board of health of a municipality, or, if the powers of such board have been vested in any other officer or board, upon the recommendation of such officer or board, the council may cause plans and estimates to be prepared and acquire

Provisions don't apply to municipality adopting charter.

Term "sanitary plant" defined.

Municipality may obtain plans and real estate for sanitary plant.

## COUNCIL OF CINCINNATI.

by condemnation or otherwise such land or lands within or without the corporate limits as are necessary to provide for the proper disposal in a sanitary manner of the sewage, garbage and waste matters, and either or any of them, of the municipality. (R. S. Sec. 2143.)

SECTION 4469. Upon obtaining the approval of the state board of health, the council may contract for, erect and maintain sanitary plant or plants on the lands so acquired with all necessary buildings, machinery, appliances and appurtenances for the treatment, purification and disposal in a sanitary and economic manner of the sewage or garbage, nightsoil, dead animals, offal, spoiled meats and fish or other putrid substances or any liquid or solid wastes or any substance injurious to the health of the municipality. (R. S. Sec. 2143.)

Approval of state board of health necessary.

SECTION 4470. The council may contract for a period of not to exceed five years for the collection and removal of such garbage, nightsoil, dead animals, and other solid waste substances at the expense of the municipality or at the expense of persons responsible for the existence of such waste substances. (R. S. Sec. 2144.)

Council may contract for removal of waste substances; expense thereof.

SECTION 4471. For such purpose the council may use any funds raised and necessary therefor, and, in case no funds are available and no bonds have been authorized for such purposes and it becomes necessary to issue and sell bonds for such purposes, the question of issuing bonds of a municipality shall be submitted at an election therefor, conducted in the same manner as in case of the issue of other bonds of the municipality in excess of the legal limit. A majority of votes cast shall be sufficient to authorize the municipality to issue bonds under this section. The council shall not issue such bonds unless a majority of the qualified electors of the municipality voting are in favor thereof. (R. S. Sec. 2145.)

How funds raised for such purposes.

## COUNCIL OF CITY OF CINCINNATI.

SECTION 14821-1. That the council of the city of Cincinnati shall be composed of ten members and a president thereof, all elected at large at the regular municipal election in the year 1913, and at each regular municipal election thereafter. That said council shall have all the powers and perform all the duties and be subject to all the provisions now provided by law for councils of cities, not inconsistent herewith, and shall be a continuance of the present council, with power to act upon unfinished business. The president shall be vice-mayor of said city, and shall be entitled to vote on all matters. Each member and the president shall receive a salary of three thousand five hundred (\$3,500.00) dollars per annum, and the president shall receive in addition thereto compensation at the rate of six hundred (\$600.00) dollars per month for such time as he shall be called upon to serve in place of the mayor.

Council of the city of Cincinnati; powers and duties and salaries of members.

The members shall devote their entire time to the duties of their office so far as may be required for the full and complete investigation and determination of all matters that come before it. (103 v. 205.)

Geographical districts.

SECTION 14821-2. Immediately upon its organization the council of the city of Cincinnati shall subdivide said city into ten geographical districts and shall assign one member as representative committeeman for each of such districts (103 v. 205.)

Submission of question of change of council.

SECTION 14821-3. There shall be a special election in the city of Cincinnati on the thirtieth day of July, A. D., 1913, at which time there shall be submitted to the electors of Cincinnati, the question of changing the council of such city as provided in this act. Such special election shall be held in the regular voting places and shall be conducted in accordance with the general election laws of the state. Council shall appropriate whatever money may be necessary for the proper conduct of such election. The board of deputy state supervisors and inspectors of election of Hamilton county shall cause to be printed on the ballots the following question:

Form of ballot.

“Shall Cincinnati adopt the small council?”

Then shall be printed the following proposition in the order set forth:

“For the adoption of the small council plan.”

“Against the adoption of the small council plan.”

Immediately to the left of each proposition shall be placed a square in which the electors by making a cross (X) mark may vote for or against such proposition.

Notice of election not required.

If approved by a majority of the electors voting thereon there shall be a council and president thereof as provided in this act. No notice of such election shall be required. (103 v. 205.)

#### CRIMINAL COURT OF LORAIN.

Establishment of criminal court in the city of Lorain; jurisdiction.

SECTION 14740-13. There is hereby established in the city of Lorain, Lorain County, Ohio, a criminal court held by a judge, which court shall be styled the criminal court and be a court of record, and shall have jurisdiction of any offense under any ordinance of the city of Lorain and of any misdemeanor committed within the limits of Lorain county, to hear and finally determine the same and impose the prescribed penalty; but cases in which the accused is entitled to a trial by a jury, shall be so tried unless a jury is waived in writing by the accused. (103 v. 397.)

Qualification, election and term of judge.

SECTION 14740-20. Such judge shall be an elector of the city and an attorney and counsellor at law duly admitted and licensed to practice law in this state. He shall be elected by the electors of said city of Lorain at the regular fall election in 1911 for a term of two years commencing on the first Monday of January next after his election. His successor shall be elected at the regular fall election in 1913 for a term of four years and at the regular fall elections each four years thereafter. (103 v. 397.)

## MUNICIPAL COURT OF CINCINNATI.

SECTION 1558-1. That hereafter the police court in the city of Cincinnati shall be a court of record and shall be styled "The Municipal Court of Cincinnati", and is hereinafter designated and referred to as the municipal court.

"The Municipal Court of Cincinnati."

SECTION 1558-2. The municipal court shall hereafter consist of five judges, one of whom shall be presiding judge, and the present police judge of Cincinnati shall be hereafter presiding judge of the municipal court until the expiration of his present term and all of said judges shall, at the time of their election or appointment, be qualified electors and residents of the city of Cincinnati and shall have been admitted to the practice of law for not less than four years. (103 v. 280.)

Judges of court and qualifications.

SECTION 1558-3. The additional judges herein provided for, including the presiding judge after the expiration of the term of the present police judge of the city of Cincinnati, shall be elected by the electors of the city of Cincinnati. The first election of said judges shall be held at the regular municipal election in 1913, at which time two judges shall be elected for four years and two for two years. At each regular municipal election next preceding the expiration of the terms of office of each judge, including the present police judge, a successor shall be elected for a term of four years. The term of office of each judge shall commence on the first day of January next after his election, and he shall hold office until his successor is elected and qualified. At any such election any two candidates receiving the highest number of votes shall be elected but the presiding judge shall be separately nominated and elected as such. (103 v. 280.)

Election and term.

SECTION 1558-29. The present clerk of the police court shall be hereafter the clerk of the municipal court until the term for which he was elected shall expire or until his successor is elected and qualified and a clerk of the police court shall not hereafter be elected in the city of Cincinnati. The successors of the first clerk shall be nominated and elected as are other municipal elective officers for a term of four years or until a successor shall be elected and qualified. Such clerk shall receive such compensation payable out of the treasury of Hamilton county not less than \$2,000.00 per annum, payable in monthly installments, as the county commissioners may prescribe and such other compensation not less than \$2,500.00 per annum, payable in monthly installments out of the treasury of the city of Cincinnati, as the council may prescribe. Deputies to the clerk shall be designated as hereinafter provided in this act. (103 v. 286.)

Clerk, election and salary.

## MUNICIPAL COURT OF COLUMBUS.

"The Municipal Court of Columbus."

SECTION 1. That there shall be, and hereby is, established in and for the city of Columbus, a municipal court, which shall be a court of record and shall be styled "the municipal court of Columbus," hereinafter designated and referred to as the "Municipal Court." (103 v. 292.)

Number and qualification of judges.

SEC. 1558-47. The municipal court shall consist of a presiding judge and three other judges, all of whom shall at the time of their election be qualified electors, and residents of the city of Columbus, and shall have been admitted to the practice of law for at least five years. (106 v. 365.)

Nomination, election and term.

SEC. 1558-50. The judges of the municipal court shall be nominated and elected by the electors of the city of Columbus at municipal elections in the same manner as judges of the court of common pleas are nominated and elected. The first election of municipal judges shall be held at the regular municipal election in the year one thousand nine hundred and fifteen, at which time two judges shall be elected for four years, one for six years, and a presiding judge for six years. At such first election for municipal judges, the candidate receiving the greatest number of votes shall be presiding judge, and shall serve six years; the candidate having the next greatest number of votes shall serve for six years; the two candidates receiving the next greatest number of votes, respectively, shall each serve for four years.

At each regular municipal election next preceding the expiration of the terms of the offices of each judge, and presiding judge a successor shall be nominated and elected for such office for a term of six years.

The term of office of each judge shall commence on the first day of January next after his election, and he shall hold office until his successor is elected and qualified. (106 v. 366.)

Clerk of municipal court; election, term, salary.

SEC. 1558-78. There shall be a clerk of the municipal court who shall be nominated and elected for a term of four years in such manner as is or may be provided by charter of the city of Columbus. The first election of clerk shall be held at the regular municipal election in the year 1915, and every four years thereafter a successor shall be elected for a like term. The clerk shall have such powers and shall perform such duties as are herein given and required. He shall receive an annual salary of thirty-five hundred dollars, twenty-five hundred dollars of which shall be paid out of the treasury of the city of Columbus, and one thousand dollars out of the treasury of Franklin county, payable in monthly installments.

The term of office of the clerk shall commence on the first day of January next after his election and he shall hold office until a successor is elected and qualified.

Chief deputy and deputy clerks.

The said clerk shall appoint a chief deputy clerk who shall be an elector of the city of Columbus and receive as compensation two thousand dollars per annum, and six ad-

## MUNICIPAL COURT OF CLEVELAND.

ditional deputy clerks, who shall be such electors and shall each receive as compensation fifteen hundred dollars per annum, payable in monthly installments out of the treasury of the city of Columbus; however, additional deputies may be provided for by the council of the city of Columbus on the recommendation of the judges of the municipal court, who shall receive such compensation, not to exceed fifteen hundred dollars each per annum, payable in monthly installments out of the city treasury of the city of Columbus as the council thereof may prescribe.

The judges of the municipal court shall appoint an assignment clerk, who shall assign cases for trial, issue for witnesses and perform such other duties, similar to those performed by the assignment commissioner of the common pleas court of Franklin county, as the judges may direct and shall receive as compensation the sum of fifteen hundred dollars per annum payable in monthly installments out of the treasury of the city of Columbus.

Assignment  
clerk.

The deputy clerks and the assignment clerk shall hold their offices during the pleasure of the appointing power (106 v. 375.)

## MUNICIPAL COURT OF CLEVELAND.

SEC. 1579-2. The municipal court shall consist of seven judges, one of whom shall be chief justice and all of whom shall at the time of their election be qualified electors and residents of the city of Cleveland and shall have been admitted to the practice of law at least five years. Provided that at the regular municipal election of 1915 there shall be elected three additional judges to the municipal court and thereafter said municipal court shall consist of ten judges. (106 v. 274.)

Number of  
judges and  
qualifications.

SEC. 1579-3. Judges of the municipal court shall receive such compensation, payable out of the treasury of Cuyahoga county not less than two thousand five hundred dollars per annum, as the county commissioners may prescribe, and such further compensation, not less than two thousand dollars per annum payable in monthly installments out of the treasury of the city of Cleveland, as the council may prescribe.

Compensation.

The chief justice who shall be separately nominated and elected as such, shall receive such compensation, payable out of the treasury of Cuyahoga county, not less than two thousand five hundred dollars per annum as the county commissioners may prescribe, and such further compensation, not less than two thousand five hundred dollars per annum, payable in monthly installments out of the treasury of the city of Cleveland as the council may prescribe.

Nomination  
and election  
of chief  
justice.

The vacation of the respective judges of the municipal court shall not exceed sixty days during each year, and shall be at such times as fixed by the chief justice, and at

Vacations of  
judges.

## MUNICIPAL COURT OF DAYTON.

least four judges shall be in attendance at all times. (106 v. 274.)

Nominations,  
election and  
term.

SEC. 1579-5. The judges of the municipal court including the chief justice shall be nominated in the same manner as other municipal officers at large are nominated in the city of Cleveland. And they shall be elected by the electors of the city of Cleveland in the manner provided by law for the election of other judicial officers. The three additional judges provided for in this act shall be elected at the regular municipal election of 1915 for a term of four years. At the regular municipal election next preceding the expiration of the term of office of each judge a successor shall be elected for a term of six years. The term of office of each judge shall commence on the first day of January next after his election and he shall hold office until his successor is elected and qualified. (106 v. 274.)

Laws govern-  
ing court of  
common pleas  
applicable.

SEC. 1579-40. Where no special provision is made in this act the laws governing the court of common pleas as to security for costs, bills of exceptions, motions for new trials, vacation or modification of judgment before and after terms, the referring of matters to a referee, the issuing of execution and orders for stay of execution, and the taking of depositions, shall be held to apply to the municipal court.

Election of  
clerk; com-  
pensation.

At the municipal election of 1911 and every four years thereafter, there shall be nominated and elected a clerk of the municipal court in the same manner as other municipal officers are nominated and elected, who shall serve until his successor is elected and qualified.

He shall receive such compensation payable out of the treasury of Cuyahoga county not less than two thousand dollars per annum as the county commissioners may prescribe, and such further compensation not less than twenty-five hundred dollars per annum payable in monthly installments out of the treasury of the city of Cleveland as the council may prescribe. Deputies to the clerk shall be designated as hereinafter provided for in this act. (103 v. 693.)

## MUNICIPAL COURT OF DAYTON.

"The Municip-  
al Court of  
Dayton."

SEC. 1579-46. That hereafter the police court in the city of Dayton shall be a court of record and shall be styled, "The Municipal court of Dayton", and is hereinafter designated and referred to as the municipal court. (103 v. 385.)

Judges consti-  
tuting court  
and qualifi-  
cations.

SEC. 1579-47. The municipal court shall hereafter consist of three judges one of whom shall be chief justice, and the present police judge of Dayton shall be hereafter chief justice of the municipal court until the expiration of his present term and all of said judges shall, at the time of their election or appointment, be qualified electors and residents of the city of Dayton and shall have been admitted to the practice of law for not less than three years. (103 v. 385.)

## MUNICIPAL COURT OF HAMILTON.

SEC. 1579-48. The additional judges herein created shall be elected at the regular municipal election in November, 1913, for terms of four years commencing on the first of January, 1914. The chief justice shall be elected at the regular municipal election next preceding the expiration of his term of office for a term of four years and all judges shall hold office until their successors are elected and qualified. (103 v. 385.)

Election of additional judges; term.

SEC. 1579-49. The salary of the judge of the municipal court shall be not less than one thousand dollars per annum, payable out of the treasury of Montgomery county in monthly installments, as the county commissioners may prescribe, and such further compensation, not less than two thousand five hundred dollars per annum, payable in monthly installments out of the treasury of the city of Dayton, as the council or other proper legal authority may prescribe. The chief justice, who shall be specially nominated and elected as such, shall receive not less than one thousand dollars per annum, payable out of the treasury of Montgomery county in monthly installments, as the county commissioners may prescribe, and such further compensation, not less than three thousand dollars per annum, payable in monthly installments out of the treasury of the city of Dayton, as the council or other proper legal authority may prescribe. (103 v. 386.)

Salary of judges.

Election and salary of chief justice.

SEC. 1579-74. The clerk shall be elected at the regular municipal election in 1913 for a term of four years and shall receive such compensation, payable out of the treasury of the city of Dayton, not less than two thousand dollars per annum, payable in monthly installments, as the city council or other legal authority may prescribe. The deputies to the clerk shall be designated as hereinafter provided in this act. (103 v. 392.)

Clerk; election, term and salary.

## MUNICIPAL COURT OF HAMILTON.

SEC. 1579-90. That there be, and hereby is created a court of record for the city of Hamilton, Butler county, Ohio, to be styled "The Municipal Court of the City of Hamilton, Ohio", (the jurisdiction thereof, to be as herein and hereinafter fixed and determined.) (103 v. 345.)

"The Municipal Court of the City of Hamilton, Ohio."

SEC. 1579-91. Said municipal court shall be presided over by one judge, to be designated herein as a "Municipal Judge", which office is hereby created, and whose term of office shall be for a period of four years, at a salary of two thousand dollars per annum, payable in monthly installments, out of the treasury of the city of Hamilton, Ohio. Said municipal judge at the time of his election or appointment shall be a qualified elector and resident of the city of Hamilton, Ohio, and have been admitted to the practice of law in the state of Ohio for not less than five years. Said judge shall be elected at the next regular municipal election after the going into effect of this act, for a term

"Municipal Judge," qualifications, election, term, salary.

## MUNICIPAL COURT OF YOUNGSTOWN.

of four years, commencing on the first day of January next, after said election and shall hold said office until his successor is elected and duly qualified. (103 v. 345.)

Clerk, election and salary.

SEC. 1579-114. A clerk for said municipal court shall be elected at the next regular municipal election after the going into effect of this act for a term of four years, commencing on the first day of January next after said election and shall hold said office until his successor is duly elected and qualified and shall receive such compensation payable out of the treasury of the city of Hamilton not less than twelve hundred dollars per annum, payable in monthly installments, as the city council may prescribe. Deputies to the clerk shall be designated as hereinafter provided in this act. (103 v. 351.)

## MUNICIPAL COURT OF YOUNGSTOWN.

Nomination and Election.

SEC. 1579-131. The judges of the municipal court shall be nominated by petition, as is now, or may hereafter be, provided by law, and shall be elected by the electors of the city of Youngstown and Youngstown township, as is now, or may hereafter be, provided by law for the election of judicial officers.

The first election of said judges respectively shall be held at the regular municipal and township election of 1913, at which time one judge shall be elected for four years, and one for two years. At the regular municipal and township election next preceding the expiration of the term of office of each judge respectively a successor shall be elected for a term of four years. The term of office of each respective judge shall commence on the first day of January next after his election, and he shall hold office until his successor is elected and qualified. (103 v. 355.)

## SCHOOL ELECTIONS.

### CITY DISTRICTS.

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### RURAL DISTRICTS.

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4726. Submission of question.
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- 4735-1. Procedure to dissolve and join to another.

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### EXTENSIONS.

7625. Submission of question of bond issue.
7626. When bonds may issue.

### UNIONIZATION.

7669. Union of districts for high schools.

SECTION 4698. In city school districts containing according to the federal census a population of less than 50,000 persons, the board of education shall consist of not less than three members nor more than five members elected at large by the qualified electors of such district.

Boards in city school districts.

In city school districts containing according to the federal census a population of 50,000 persons or more, but less than 150,000 persons, the board of education shall consist of not less than two members nor more than seven members elected at large by the qualified electors of the school district, and of not less than two members nor more than twelve members elected from subdistricts by the qualified electors of their respective subdistricts.

In city school districts containing according to the federal census a population of 150,000 persons or more, the board of education shall consist of not less than five nor more than seven members elected at large by the qualified electors of such district; the office of subdistrict member in boards of education in all such city school districts is hereby abolished and the terms of members elected from subdistricts shall terminate on the day preceding the first Monday in January, 1914. (103 v. 275.)

Number of members determined; how.

Division into subdistricts.

SEC. 4699. Within thirty days after this act shall take effect, the board of education of each and every city school district in which the number of members does not conform to the provisions of section 4698 shall by resolution determine within the limits prescribed by said sections the number of members of said board of education. Said resolution shall provide for the classification of the terms of members so that they will conform to the provisions of section 4702, General Code, taking into consideration the terms of office of the existing members whose terms do not expire or terminate on the day preceding the first Monday in January, 1914. At the same time such boards of education in city school districts containing according to the federal census a population of 50,000 persons or over, but less than 150,000 persons shall subdivide such city school district into subdivisions equal in number to the number of members of the board of education in the district, who are to be elected from subdistricts therein so established. Such subdistricts shall be bounded, as far as practicable, by corporation lines, streets, alleys, avenues, public grounds, canals, water courses, ward boundaries, voting precinct boundaries, or present school district boundaries, and shall be as nearly equal in population as possible and be composed of adjacent and as compact territory as practicable. Such subdivision shall be numbered from one up consecutively and the lines thereof so fixed shall not be changed until after each succeeding federal census.

Redistricting.

\* Within three months after the official announcement of the result of each succeeding federal census, the board of education of each city school district which according to such census shall have a population of 50,000 persons or over and less than 150,000 persons, shall redistrict such district into subdistricts in accordance with the provisions of this chapter. If the board of education of any such district, fails to district or redistrict such city school district, as herein required then the state superintendent of public instruction shall forthwith district or redistrict such city school district, subject to the requirements of this chapter. (103 v. 275.)

Board shall fix number of members and subdistricts; boundaries.

SECTION 4700. The board of education of each city school district, by resolution, shall fix within the limits so prescribed the number of members of the board of education, to be elected at large, and the number of members of the board to be elected by city districts. At the same time, the board shall subdivide such city school district into subdivisions equal in number to the number of members of the board of education in the district, who are to be elected from subdistricts therein so established. Such subdistricts shall be bounded, as far as practicable, by corporation lines, streets, alleys, avenues, public grounds, canals, water courses, ward boundaries, voting precinct boundaries, or present school district boundaries, and shall

## CITY DISTRICTS.

be as nearly equal in population as possible and be composed of adjacent and as compact territory as practicable. The lines of such subdistricts so fixed shall not be changed until after each succeeding federal census. (R. S. Sec. 3897.)

SECTION 4701. Whenever the number of members of the board of education of a city school district, as fixed by the resolution provided for in section 4699, shall be more than the number of members whose terms will not expire or terminate on the day preceding the first Monday in January, 1914, the additional members of such board shall be elected at the general school election in the year 1913 for such terms of two or four years as may be necessary to comply with the two provisions of sections 4698 and 4702.

Election of additional members, when.

Whenever the number of members of any such board of education shall by the resolution provided for in said section 4699 be fixed at less than the number of members of said board whose terms do not expire or terminate on the day preceding the first Monday in January, 1914, the member or members to retire shall be determined by lot from among those whose terms would expire on the day preceding the first Monday in January, 1916, lots being cast among members elected at large and among members elected from subdistricts separately, and the terms of office of those on whom the lot falls shall expire on the day preceding the first Monday in January, 1914. (103 v. 276.)

Retiring members determined by lot.

SECTION 4702. The term of office of all members of boards of education in city school districts, except as provided in section 4701, shall be four years. All members in office at the time this act takes effect shall serve the unexpired portions of the terms for which they were respectively elected and until their successors are elected and qualified, unless their terms shall expire or shall have been terminated as provided by sections 4698 and 4701.

Term.

If the number of members of a board of education of any city school district to be elected at large as fixed pursuant to section 4699 be even, one-half thereof shall be elected in the preceding year, and the remaining half in the year following the calendar year divisible by four. If such number be odd, one-half of the remainder after diminishing the number by one shall be elected in the year preceding, and the remaining number shall be elected in the year following the calendar divisible by four. All members to be elected from odd numbered subdistricts shall be elected at one and the same election, and all members from even numbered subdistricts shall be elected at the alternate election. (103 v. 277.)

When members elected.

SECTION 4703. When territory is attached to a city school district for school purposes, the electors residing in said attached territory shall be entitled to vote for school officers and on all school questions in said district. It shall

Electors in attached territory entitled to vote.

be the duty of the board of education of such city school district to assign such territory to the adjoining election precinct or precincts of said district and to have a map prepared showing such assignment, which shall be made a part of the records of said board. The electors residing in such attached territory shall be entitled to vote in the precincts to which they are assigned, but in case no assignment is made by the board of education, each elector shall vote in the precinct nearest his residence.

An elector residing in a city but not in the city school district of said city shall not be entitled to vote in said city school district. (103 v. 277.)

Submission of question of number of members.

SECTION 4704. If, at any time, a petition signed by ten (10%) per cent of the electors of any district shall be filed with the clerk of the board of education of such district asking that the question what shall be the number of members and what the organization of the board of education of such district be submitted to the electors thereof, such board of education shall within thirty days after the filing of such petition provide by resolution for submitting such question to the electors of such district. Such question shall not be submitted to a referendum vote more than once in any period of four years and the percentage of electors required to sign such petition shall be based upon the total vote cast at the last preceding general school election.

Commission to frame plans of organization for submission.

Said resolution shall require that such question shall be submitted at the next regular school election and shall also provide for the appointment of a commission to frame two or more plans of organization for submission as above provided. Said commission shall consist of seven members, three of whom shall be appointed by the president of the board of education of such district, two by the mayor of the city in which such district is embraced and two by the president of the board of sinking fund trustees of such city.

A certified copy of said resolution shall immediately after its passage be transmitted to the mayor and president of the board of sinking fund trustees of said city and such commission shall be appointed and shall organize within sixty days after the passage of said resolution. (103 v. 277.)

When and how plans shall be submitted and for what they shall provide.

SECTION 4705. Said commission shall prepare and submit to the electors at the next general school election, if one occur not less than one hundred and twenty days after the passage of said resolution, otherwise, at the second general school election, two or more plans for the organization of the board of education in such district, but in no event shall less than two plans be submitted. Each plan shall provide for the number of members, the length of term

## VILLAGE DISTRICTS.

of the members and the organization of the board; one plan so submitted shall provide for a board of the same number and of the same organization as the board existing in said district at the time of said election. Said plans shall be submitted to the electors of said district on a separate ballot, bearing no party designation and in such form as said commission may determine. A certified copy of the resolution determining such form shall be transmitted by said commission to the proper election authorities a sufficient length of time prior to said election to enable the ballot therefor to be prepared. (103 v. 278.)

SECTION 4706. Provision shall be made by the board of deputy state supervisors and inspectors of election or other board or officer having charge of elections within any district for the preparation of the ballots for the holding of said election as hereinbefore provided and said election shall be conducted in all respects not herein specifically provided for, in a manner prescribed by general law for school elections. Election;  
expense.

The board of education of such district shall make such provision as is necessary for meeting the expense of said commission, but said commissioners shall receive no compensation. (103 v. 278.)

SECTION 4707. If any plan so submitted shall receive a majority of the number of votes cast for all of the plans, it shall thereafter become the law governing the number of members and the organization of the board of education in such district and at the next general school election following the adoption of such plan all of the members of the board of education of such district shall be elected pursuant to such plan. Adoption of  
by majority  
vote.

The terms of all members of the board of education of such district who may have been elected prior to the adoption of such plan, or who may be elected at the general school election at which such plan is adopted, shall expire on the day preceding the first Monday of January following the next general school election thereafter. All members elected at said general school election following the adoption of such plan shall take office on the first Monday of January next following their election and shall hold office during such term or terms as may be provided by such plan adopted by the electors of said district, but no terms shall be for less than two years. (103 v. 278.) Expiration  
of terms.

## VILLAGE DISTRICTS.

SECTION 4682. A village, together with the territory attached to it for school purposes, and excluding the territory within its corporate limits attached for school purposes, with a tax valuation of less than five hundred thousand dollars, shall not constitute a village school district, but the proposition to organize the territory thus formed into a village school district may be submitted by the board Village with  
less than five  
hundred thou-  
sand valua-  
tion not a  
village dis-  
trict.

Vote to organize village school district.

of education, and shall be submitted by the board of education upon the presentation to it of a written petition for such purpose signed by 25 per cent. of the electors of the territory thus formed, to a vote of the electors of the territory thus formed at any general or a special election called for that purpose, and be so determined by a majority vote of such electors. (103 v. 546.)

When and how village school districts may dissolve and join rural districts.

SECTION 4682-1. A village school district containing a population of less than fifteen hundred may vote at any general or special election to dissolve and join any contiguous rural district. After approval by the county board such proposition shall be submitted to the electors by the village board of education on the petition of one-fourth of the electors of such village school district or the village board may submit the proposition on its own motion and the result shall be determined by a majority vote of such electors. (103 v. 133.)

Board of education in village districts.

SECTION 4708. In village school districts, the board of education shall consist of five members elected at large at the same time as municipal officers are elected and in the manner provided by law. (R. S. Sec. 3908.)

Terms of members chosen at first election.

SECTION 4709. At the first election in such district, a board of election shall be elected, two members to serve for two years and three to serve for four years. At the proper municipal election held thereafter, their successors shall be elected for a term of four years. R. S. Sec. 3908.

NOTE:—A special election for members of the board of education of a village district in a newly incorporated village cannot be held at the same time and place designated by council for the holding of a special election under the Beal Law. The latter act requires the election under the Beal Law to be a special one, and the ballot used is such that it is impractical to hold an election of officers at the same time.

Election in newly created village.

SECTION 4710. In villages hereafter created, a board of education shall be elected as provided in the preceding section. When villages hereafter created, or which have been heretofore created, fail or have failed to elect a board of education as provided in the preceding section, the commissioners of the county to which said district belongs, shall appoint such board, and the members so appointed shall serve until their successors are elected and qualified. The successors of the members so appointed, shall be elected at the first election for members of the board of education held in such district after such appointment; two members to serve for two years and three members for four years, and thereafter their successors shall be elected in the manner and for the term as provided by section 4709 of the General Code. The board so appointed by the county commissioners shall organize on the second Monday after their appointment. If the members of such board are elected at a special election held in such district the

Appointment of board of education on failure to elect.

Organization of board.

## RURAL DISTRICTS.

members so elected shall serve for the term indicated in the preceding section, from the first Monday in January after the preceding election for members of the board of education and the board shall organize on the second Monday after such election. (103 v. 166.)

SECTION 4711. Electors residing in territory attached to a village district for school purposes, may vote for school officers and on all school questions at the proper voting place in the village to which the territory is attached. If the village is divided into precincts, the board of education of the village school district shall assign such attached territory to the adjoining precinct or precincts of the village, and have a map prepared showing such assignment, which map shall be made a part of the records of the board. Electors residing in such attached territory may vote in the precinct to which they are assigned, but, if no assignment of territory is made, they shall vote in the precinct nearest their residence. An elector residing in the village but not in the village school district shall not vote in such village school district. (R. S. Sec. 3910-3.)

Assignment of electors in attached territory for voting purposes.

## RURAL DISTRICTS.

SECTION 4712. In rural school districts, the board of education shall consist of five members elected at large at the same time township officers are elected and in the manner provided by law, for a term of four years. (104 v. 135.)

Board of education in rural school districts.

SECTION 4714. Electors residing in a rural school district may vote for school officers and on all school questions at the proper voting place in the township in which such district is located. If the township is divided into different voting precincts, the board of education of such district shall assign the voters thereof to the proper precinct or precincts, and a map shall be prepared showing such assignment, which map shall be made a part of the records of the board. Electors may vote according to such assignment, but, if no assignment of territory is made, they shall vote in the precinct nearest their residence. (104 v. 135.)

Assignment of electors in attached territory for school purposes.

SECTION 4736-1. In rural school districts hereafter created by a county board of education, a board of education shall be elected as provided in section 4712 of the General Code. When the rural school districts hereafter so created, or which have been heretofore so created, fail or have failed to elect a board of education as provided in said section 4712, or whenever there exists such school district which for any reason or cause is not provided with a board of education, the commissioners of the county to which such district belongs shall appoint such board of education, and the members so appointed shall serve until their successors are elected and qualified. The successors of the members so appointed shall be elected at the first election for mem-

Election of members of board of education in new district; appointment in certain cases.

bers of the board of education held in such district after such appointment, two members to serve for two years and three members for four years. And thereafter their successors shall be elected in the manner and for the term as provided by section 4712 of the General Code. The board so appointed by the commissioners of the county shall organize on the second Monday after their appointment. (106 v. 550.)

## CENTRALIZATION.

Question of centralization to be submitted to vote.

SECTION 4726. A rural board of education may submit the question of centralization, and, upon the petition of not less than one-fourth of the qualified electors of such rural district, or upon the order of the county board of education, must submit such question to the vote of the qualified electors of such rural district at a general election or a special election called for that purpose. If more votes are cast in favor of centralization than against it at such election, such rural board of education shall proceed at once to the centralization of the schools of the rural district, and, if necessary, purchase a site or sites and erect a suitable building or buildings thereon. If, at such election, more votes are cast against the proposition of centralization than for it, the question shall not again be submitted to the electors of such rural district for a period of two years, except upon the petition of at least forty per cent of the electors of such district. (104 v. 139.)

NOTE:—Only electors of the township school district may vote upon question of centralization. Atty. Gen. 12-10-1907.

SECTION 4726-1. In townships in which there are one or more school districts, the qualified electors of such school districts may vote on the question of centralizing the schools of said township districts, or of special school districts therein, without interfering with the existing school district organization until the result of the election shall have been determined. If at such election in any township a majority of all the votes cast shall be in favor of centralizing the schools in said township, the probate judge of the county shall create a new board of education for the said township, without delay, by selecting from the several boards of education thus consolidated, five suitable persons, giving each former district its fair representation in such selection, which such five persons so selected shall constitute the board of education for said township until the first township election thereafter; at such first township election thereafter the electors of such township shall elect two members of the board of education for two years, and three members to serve for three years, and at the proper elections thereafter their successors shall be elected for four years. If a majority of the electors in said township vote against said centralization at the time above

## ABANDONMENT OF SPECIAL DISTRICT — INCREASE OF TAX LEVY.

designated, then the several school districts in said township shall proceed as though no election had been held. (106 v. 442.)

SECTION 4727. When the schools of a rural school district have been centralized such centralization shall not be discontinued within three years, and then only by petition and election, as provided in section 4726. If at such election more votes are cast against centralization than for it, the division into subdistricts as they existed prior to centralization shall thereby be re-established. (104 v. 139.)

Question of decentralization may be submitted after three years.

## DISSOLUTION OF RURAL DISTRICT.

SECTION 4735-1. When a petition is signed by not less than one-fourth of the electors residing within the territory constituting a rural school district, praying that the rural district be dissolved and joined to a contiguous rural or village district, is presented to the board of education of such district; or when such board, by a majority vote of the full membership thereof, shall decide to submit the question to dissolve and join a contiguous rural or village district, the board shall fix the time of holding such election at a special or general election. The clerk of the board of such district shall notify the deputy state supervisors of elections, of the date of such election and the purposes thereof, and such deputy state supervisors shall provide therefor. The clerk of the board of education shall post notices thereof in five public places within the district. The result shall be determined by a majority vote of such electors. (104 v. 138.)

Procedure to dissolve rural district and join to others contiguous thereto.

## INCREASE OF TAX LEVY.

SECTION 7591. Except as hereinafter provided, the local tax levy for all school purposes shall not exceed twelve mills on the dollar of valuation of taxable property in any school district, and in the city school districts shall not be less than six mills. Such levy shall not include any special levy for a specified purpose, provided for by a vote of the people. (R. S. Sec. 3959.)

Maximum levy.

SECTION 7592. A greater or less tax than is authorized above may be levied for any or all school purposes. Any board of education may make an additional annual levy of not more than five mills for any number of consecutive years not exceeding five, if the proposition to make such levy or levies has been submitted by the board, to a vote of the electors of the school district, under a resolution prescribing the time, place and nature of the proposition to be submitted, and approved by a majority of those voting on the proposition. (R. S. Sec. 3959.)

Greater tax may be levied.

SECTION 7593. Notice of such election must be given by publication of the resolution for three consecutive weeks prior thereto in some newspaper published and of

Notice of election.

general circulation in the district, or by posting copies thereof in five of the most conspicuous places in the district for a like period, if no such paper is published therein. (R. S. Sec. 3959.)

## EXTENSIONS.

May issue  
bonds.

SECTION 7625. When the board of education of any school district determines that for the proper accommodation of the schools of such district it is necessary to purchase a site or sites to erect a schoolhouse or houses, to complete a partially built schoolhouse, to enlarge, repair or furnish a schoolhouse, or to purchase real estate for playground for children, or to do any or all of such things, that the funds at its disposal or that can be raised under the provisions of section seventy six hundred and twenty nine and seventy-six hundred and thirty, are not sufficient to accomplish the purpose and that a bond issue is necessary, the board shall make an estimate of the probable amount of money required for such purpose or purposes and at a general election or special election called for that purpose, submit to the electors of the district the question of the issuing of bonds for the amount so estimated. Notices of the election required herein shall be given in the manner provided by law for school elections. (102 v. 419.)

If question  
approved,  
board may  
issue such  
bonds.

SECTION 7626. If a majority of the electors, voting on the proposition to issue bonds, vote in favor thereof, the board thereby shall be authorized to issue bonds for the amount indicated by the vote. The issue and sale thereof shall be provided for by a resolution fixing the amount of each bond, the length of time they shall run, the rate of interest they shall bear, and the time of sale, which may be by competitive bidding at the discretion of the board. (R. S. Sec. 3992.)

## UNIONIZATION.

Union of dis-  
tricts for high  
school pur-  
poses.

SECTION 7669. The boards of education of two or more adjoining rural school districts, or of a rural and village school district by a majority vote of the full membership of each board, may unite such districts for high school purposes. Each board also may submit the question of levying a tax on the property in their respective districts, for the purpose of purchasing a site and erecting a building, and issue bonds, as is provided by law in case of erecting or repairing school houses; but such question of tax levy must carry in each district before it shall become operative in either. If such boards have sufficient money in the treasury to purchase a site and erect such building, or if there is a suitable building in either district owned by the board of education that can be used for a high school building it will not be necessary to submit the proposition to vote, and the boards may appropriate money from their funds for this purpose. (104 v. 229.)

## LOCAL OPTION.

### GENERAL PROVISIONS.

SECTION

6097. What petitions must contain.

#### LOCAL OPTION IN TOWNSHIPS.

- 6119. Petition for election.
- 6120. Election and results.
- 6122. Form of ballot.
- 6123. When traffic unlawful.
- 6125. When another election may be ordered.
- 6126. Entry and record of election.

### LOCAL OPTION IN MUNICIPALITIES.

SECTION

- 6127. Petition for election.
- 6128. Election and results.
- 6130. Form of ballots.
- 6131. When sales unlawful.
- 6133. Entry and record.
- 6134. Contests of election, petition.
- 6135. Proceedings in probate court.
- 6136. When another election may be held.

### GENERAL PROVISIONS.

SECTION 6097. Petitions, presented under the provisions of a local option law, to prohibit the sale of intoxicating liquor as a beverage, shall have the name and addresses of each elector signing such petition, the name of the street and number, if there is such, and if there is no street and number, then the name of the village or township shall be written opposite the name of the elector. (99 v. 475 § 21a.)

Petition must contain address of signer.

#### LOCAL OPTION IN TOWNSHIPS.

SECTION 6119. When one-fourth of the qualified electors of a township residing outside of a municipal corporation, petition the trustees of such township for the privilege of determining by ballot whether the sale of intoxicating liquors as a beverage shall be prohibited within the limits of such township and without the limits of a municipal corporation, such trustees shall order a special election for such purposes to be held at the usual place or places for holding elections in the township. (85 v. 55 § 1.)

Petition for election prohibiting liquor traffic in townships.

NOTE:—The act entitled “An act to further provide against the evils resulting from the traffic in intoxicating liquors by local option in any township in the State of Ohio,” passed March 3, 1888, is not in conflict with the constitution, and is a valid law.

Gordon v. State, 46 O. S. 607.

SECTION 6120. Notice thereof shall be given and such election conducted as provided by law for the election of township trustees. Only those electors shall be entitled to vote at such election who reside within the township and without the limits of a municipal corporation. A record of the result of the election shall be kept by the clerk of such township in the record of the proceedings of the township trustees. (85 v. 55 § 1.)

Election and result.

NOTE:—Where a township local option election is held in a township composed of two voting precincts, in one of which a municipal corporation is situate, the regular judges and clerks in

LOCAL OPTION IN MUNICIPAL CORPORATIONS.

each of the precincts should preside at and conduct such election, notwithstanding the fact that one or more of the judges in one of the precincts may reside within the limits of the incorporated village. At such election only those voters residing within the township and outside the limits of the municipal corporation are entitled to vote.

Ballots at such election.

SECTION 6122. Persons voting at such election, who are opposed to the sale of intoxicating liquors as a beverage, shall have printed or written on their ballots "against the sale"; and those who favor the sale of such liquors shall have written or printed on their ballot "for the sale". (85 v. 55 § 2.)

NOTE:— It is the duty of the deputy state supervisors of elections to prepare ballots for use at a local option election within a township. The ballots should be printed upon the quality of paper described by the ballot laws. The regular judges and clerks of election in the proper precincts must conduct such special elections.

None but resident voters are entitled to vote at a special election under the township local option act. Whether a person is a qualified elector of the township or not depends upon the question of fact and intention. Persons who are within the township for temporary purposes only are not entitled to vote therein.

When traffic unlawful.

SECTION 6123. If a majority of the votes cast at such election shall be "against the sale", then from and after thirty days from the day of the holding of such election, no person within the limits of such township and without the limits of such municipal corporation shall sell, furnish or give away any intoxicating liquors to be used as a beverage, or keep a place where such liquors are kept for sale, given away or furnished. (85 v. 55 § 2.)

When another election may be ordered.

SECTION 6125. After two years from the date of an election, held under the provisions of this subdivision of this chapter, another election may be ordered as provided therein. (85 v. 56 § 5.)

Entry and record of result of election.

SECTION 6126. The following shall be a sufficient entry and record of the results of an election held under the provisions of this subdivision:

The State of Ohio ..... County  
..... Township, ss:  
The special election held on the ..... day of .....  
A. D., ....., within and for said township, under the  
local option law, resulted as follows:

Whole number of votes "for the sale", .....  
whole number of votes "against the sale", .....

Attest: .....  
Township Clerk

(85 v. 56 § 6.)

LOCAL OPTION IN MUNICIPAL CORPORATIONS.

Petition for election to prohibit liquor traffic in municipality.

SECTION 6127. When, in a municipal corporation divided into wards, qualified electors in a number equal to forty per cent of the number of votes cast therein at the last preceding general election for state and county officers,

LOCAL OPTION IN MUNICIPAL CORPORATIONS.

or when, in any other municipal corporation, qualified electors in a number equal to forty per cent of the votes cast therein at the last preceding general election for municipal officers, petition the council thereof for the privilege to determine by ballot whether the sale of intoxicating liquors as a beverage shall be prohibited within the limits of such municipal corporation, such council shall order a special election to be held at the usual place or places for holding elections therein in not less than twenty days nor more than thirty days from the filing of such petition with the mayor of such municipal corporation or from the presentation of such petition to the council thereof. Thereupon such petition shall be filed as a public document with the clerk of such municipal corporation and preserved for reference and inspection. (R. S. Secs. 4364-20a, 4364-20e.)

SECTION 6128. Notice shall be given of such election, and it shall be conducted as provided by law for the election of members of the council of such municipal corporation as far as such law is applicable. The result of the election shall forthwith be entered upon the record of the proceedings of the council of the municipal corporation by the clerk thereof. (R. S. Sec. 4364-20a.)

Election and result.

SECTION 6130. The ballots at the election, held under the provisions of the next three preceding sections, shall be printed with an affirmative and a negative statement, to-wit: "The sale of intoxicating liquors as a beverage shall be prohibited," "the sale of intoxicating liquors as a beverage shall not be prohibited", with a blank space on the left side of each statement in which to give each elector an opportunity to clearly designate his choice by a cross mark as follows:

Ballots to be voted at such election.

(.....) The sale of intoxicating liquors as a beverage shall be prohibited.

(.....) The sale of intoxicating liquors as a beverage shall not be prohibited.

(R. S. Sec. 4364-20b.)

SECTION 6131. If a majority of the votes cast at such election shall be in favor of prohibiting the sale of intoxicating liquors as a beverage, then from and after thirty days from the date of holding such election, no person, personally or by agent, within the limits of such municipal corporation shall sell, furnish or give away any intoxicating liquors to be used as a beverage, or keep a place where such liquors are kept for sale, given away or furnished for beverage purposes. (R. S. Sec. 4364-20b.)

When sale unlawful.

SECTION 6133. The following shall be a sufficient entry and record of the result of an election held under the provisions of this subdivision of this chapter:

Entry and record of result of election.

The State of Ohio, County of .....  
municipal corporation of .....

The special election held on the ..... day of ..... , A. D. .... , within and for the municipal corporation of ..... under the local option law resulted as follows:

Whole number of votes "for the sale of intoxicating liquors as a beverage" .....

Whole number of votes "against the sale of intoxicating liquors as a beverage" .....

Clerk of .....

(R. S. Sec. 4364-2of.)

Contest of election; petition.

SECTION 6134. Any qualified elector of a municipal corporation wherein such election has been held may contest the validity thereof by filing a petition duly verified with the probate court of the county, in which such municipal corporation is situated, within ten days after the election, setting forth the grounds for contest. Such court shall require the persons contesting the election to furnish sufficient security for costs before such petition is filed. (R. S. Sec. 4364-20i.)

Proceedings in probate court.

SECTION 6135. The judge of the probate court, upon the filing of such petition, shall forthwith issue a summons, addressed to the mayor of such municipal corporation, notifying him of the filing of the petition and directing him to appear in such court on behalf of the municipal corporation, at the time named in the summons, which shall be not more than twenty days after such election nor less than five days after the filing of the petition. The probate court shall have final jurisdiction to hear and determine the merits of the proceedings, and shall be governed by the law providing for contesting the election of a justice of the peace as far as such law is applicable. (R. S. Sec. 4364-20i.)

When another election may be held.

SECTION 6136. After two years from the date of an election held under the provisions of this subdivision of this chapter, another election may be petitioned for and shall be ordered as provided therein. (R. S. Sec. 4364-20h.)

## OFFENSES RELATING TO ELECTIONS.

THE CORRUPT PRACTICES ACT.	SECTION
SECTION	13323-1. Penalty.
5175-1. Committee or organization defined.	13323-2. Incrimination no excuse from testifying.
5175-2. Statement of expenditure.	13323-3. Limitation of action.
5175-3. Statement shall contain, what.	
5175-4. Statement of person other than candidate.	ILLEGAL VOTING.
5175-5. Statements and accounts signed and verified.	13250. Voting more than once at same election.
5175-6. Where statements filed; copies as evidence; report to attorney general of candidates required to file statements.	13251. Voting without one year's residence.
5175-7. Secretary of state shall prepare form.	13252. Voting, a resident of another state.
5175-8. Certificate of election shall not issue until statement filed.	13253. Voting, not a resident of the county thirty days.
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5175-10. Records and accounts.	13255. Voting, not being twenty-one years of age.
5175-11. Receipted bills and vouchers.	13256. Voting, not being a citizen.
5175-12. Payment in name of another not allowed.	13257. Voting, being under conviction for crime.
5175-13. Punishment for violations.	13258. Voting by impersonating another.
5175-14. Petition and allegations for investigation.	
5175-15. Where petition filed.	PROCURING ILLEGAL VOTE.
5175-16. Bond.	13259. Non-resident of state.
5175-17. Order of court and service of same.	13260. Non-resident of county.
5175-18. Hearing.	13261. Not of legal age.
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5175-20. Decision.	13263. Other disabilities.
5175-21. Contempt.	
5175-22. Effect of failure to file statement.	BALLOTS.
5175-23. Limitation.	13264. Putting a fraudulent ballot in box.
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5175-25. Appeals.	13266. Fraudulently changing a ballot of an elector.
5175-26. Defining corrupt practices.	13267. Illegal marking of ballot.
5175-27. Defining corrupt practices.	13268. Inducing an elector to show how he marked his ballot.
5175-28. Defining corrupt practices.	13269. Elector permitting ballot to be seen.
5175-29. Amount of expenditure allowed candidates.	13270. Interfering with an elector when marking his ballot.
5175-29a. Amount of expenditure or contribution by person other than a candidate.	13271. Elector marking ballot so as to be identified.
5175-29b. Expenditure allowed upon submission of a proposition.	13272. Elector making false statement as to inability to mark ballot.
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5175-29d. Designation of size of paper and type and arrangement of petition.	13274. Election officer deceiving an elector in marking his ballot.
5175-29e. Submission of proposed law or amendment to legislative reference department.	13275. Forging official endorsement on ballot.
5175-29f. Words which shall be printed in red.	13276. Tearing down, etc., specimen ballot, etc.
5175-29g. Statement to be made by solicitor.	13277. Destroying lawful ballot.
5175-29h. Part petition should not contain names from more than one county; transmittal of to deputy state supervisors.	13278. Removing ballot outside of enclosure.
5175-29i. Petitions open to public inspection; comparison of signature; filing additional signatures; return to secretary of state.	13279. Delaying delivery of ballot.
5175-29k. Designation of committee to represent petitioners.	13280. Distributing as unlawful ballot.
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5175-29n. What constitutes corrupt practices relative to I. and R. petitions.	13282. Further offenses pertaining to printing of ballots.
5175-29o. Penalties for violations of act safeguarding I. and R. petitions.	13283. Offenses pertaining to custody or delivery of ballots, blanks, poll-books, cards of instruction, etc.
5175-29p. Punishment.	
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5175-29r. Petitions to which certain sections apply.	13284. Judges of election knowingly counting fraudulent votes.
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	13286. Judge permitting ballots in box at opening of polls.
	13287. Judge refusing to take oath.
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13289. Judge refusing lawful ballot.  
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 13298. Inducing same.  
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## PRIMARY ELECTION.

13324. Penalties applying to primary elections.  
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13326. Voting, after objections made.  
 13327. Voting, after a change in party.  
 13328. Voting, at certain polling place.  
 13329. Voting, when not a citizen.  
 13330. Voting more than once.  
 13331. Voting, not a resident.  
 13332. Voting under false name, etc.  
 13333. Impersonating another.  
 13334. Falsely signing certain papers.  
 13335. Voting with wrong political party.  
 13336. Intimidating elector.  
 13337. Omission of duty by judge or supervisor.  
 13338. Official refusing to perform duty.  
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## MISCELLANEOUS.

12842. Penalty for false affidavit verifying petitions.  
 12949. Penalty for interfering with privileges of an elector on election day.  
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 13346. Destroying certificate of election result.  
 13347. Publishing false statement of election results.  
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 13349. Destroying certificate of nomination, etc.  
 13350. Fraudulent writing on poll-books or tally sheets.  
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 13354. Judges may order persons at precinct to disperse.  
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 13360. When prosecutions must begin.

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"Committee"  
 or "organiza-  
 tion" defined.

SECTION 5175-1. The term "committee" or "organization" as hereinafter used, shall include every committee or combination of two or more persons co-operating to aid or promote the success or defeat of a political party or principle, or of any proposition submitted to vote at any election, or to aid or take part in the election or defeat of any candidate for public office; or to aid or take part in the election or defeat of any candidate for nomination at a primary election or convention, including all proceedings prior to such primary election, or of any candidate for any office, whether public or not, to be voted for at a primary election; under the primary election law; or any other organization or society soliciting or receiving money, as-

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sessments or other things of value, or in any way advocating or promoting the success or defeat of any candidate for office, or of any principal measure or proposition to be voted for at any election held in this state; but nothing herein contained shall apply to or in respect of any committee or organization for the discussion or advancement of political or economic questions. (103 v. 578.)

SECTION 5175-2. Every candidate who is voted for at any election or primary election held within this state, and every person, committee or association or persons incorporated or unincorporated, who may have contributed, promised, received or expended directly or indirectly any money or thing of value in connection with any election held in this state, shall within ten days after such election file, as hereinafter provided, an itemized statement showing in detail all the moneys or things of value, so contributed, promised, received or expended, and all liabilities directly or indirectly incurred in connection with such elections; but individuals other than candidates making only contributions, the receipt of which must be accounted for by others, need not file such statement under this section. (103 v. 578.)

Statement of expenditures.

SECTION 5175-3. Such statement shall contain the full name and address of the candidate, person, committee or association making the same, and the names and addresses of each candidate, person, or committee or association who contributed, promised, received or expended any money or thing of value, or incurred directly or indirectly any liability, the specific nature of such item, the purpose for which, the place where and the date when it was contributed, promised, received, expended or incurred and shall specify the balance in the hands of the accounting person, committee, association or candidate, and the disposition to be made thereof. (102 v. 321.)

Statement shall contain, what.

SECTION 5175-4. Any individual other than a candidate who has expended any money or thing of value for or on behalf of any candidate, committee or association which may have interested itself in the election or defeat of a candidate, or measure, may, instead of filing a statement as provided in this section, and if the money or thing of value was received from a candidate, committee or association shall within five days after such election deliver to such candidate, committee or association an account stating in detail to whom, when, where, for what purpose and in what sums he paid out such money or thing of value, and such account shall be attached to and form a part of the statement to be filed by the candidate, committee or association as provided in this act. But if a candidate, committee or association cannot obtain such account from the person to whom he or they advanced any money or thing of value within the time in which such statement must be filed, such candidate, committee or association shall so recite in his or their statement, giving the names and addresses of the per-

Statement of person other than candidate.

sons to whom money or things of value was advanced and who failed to account for the same, and the reasons, if any, given for such failure. (102 v. 321.)

Statements and accounts signed and verified.

SECTION 5175-5. All statements and accounts of expenditure shall be signed and verified by the candidate, president or the duly appointed treasurer of the committee or the association filing the same. The verification must show every such statement or account to be, to the affiant's own knowledge, a full and true statement or account of all contributions made or received by him, or by the committee or association of which he is a member, and of the disposition thereof made and all liabilities incurred by him or such committee or association. (103 v. 578.)

Where statements filed.

SECTION 5175-6. Statements required to be filed by this section if they relate to the election of candidates for offices to be filled by, or propositions submitted to, the electors of the entire state, or any division or district thereof greater than a county, shall be filed in the office of the secretary of state; in all other elections such statements shall be filed in the office of the board of deputy state supervisors of elections for the county in which such election is held. All such statements shall be open to public inspection and shall be retained in such office for a period of not less than four years and no fee shall be charged for filing the same. Copies of such statements, certified by the secretary of state or the clerk of the board of deputy state supervisors of elections with whom the same are filed, under seal (if any) of his office, shall be admitted as evidence in all courts with like force and effect as the original would have if produced. And said boards of deputy state supervisors of elections when such statements are herein required to be filed with them and the secretary of state when said statements are herein required to be filed with him shall file in the office of the attorney general not less than twenty days nor more than twenty-five days after any such election a report showing in detail the names of all candidates voted for at any such election or other persons required by law to file statements, who have filed their statements as herein provided, and the names of all candidates voted for at any such election or any other persons who are in default thereof. And the attorney general shall forthwith certify to the prosecuting attorney in the county where such persons are in default for statements the names of all candidates or other persons who are so in default with instructions to proceed against the delinquents. (103 v. 579.)

Copies as evidence.

Report to attorney general of candidates required to file statements.

Secretary of state shall prepare form.

SECTION 5175-7. The secretary of state shall prepare a form of statement required by this act and at the expense of the state shall furnish to the board of deputy state supervisors of elections for each county, and, upon application, to any candidate, committee or other persons or organizations required to file such statement under this act. (102 v. 321.)

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SECTION 5175-8. No board, office or officer authorized by law to issue commissions or certificates of election shall issue a commission or certificate of election to any person required by this act to file a statement or statements until such statement or statements have been so made, verified and filed by such persons as provided by this act. No person, required by this act to file a statement or statements shall enter upon the duties of any office to which he may be elected until he has filed all statements provided by this act, nor shall he receive any salary or emolument prior to the filing of the same. (102 v. 321.)

Certificate of election shall not issue until statement is filed.

SECTION 5175-9. Every committee, association or organization subject to the provisions of this act, shall appoint and constantly maintain a treasurer, who shall be a resident of this state, to receive, keep and disburse all sums of money which may be collected or received or disbursed by such committee, association or organization, or by any of its members, for any of the purposes mentioned in this act; and unless such treasurer is first appointed and thereafter maintained, it shall be unlawful and a violation of this act for a political committee or any of its members to collect, receive or disburse money for any such purpose. All money collected or received or disbursed by any political committee or by any member or members thereof, for any of the purposes mentioned in this act, shall be paid over and made to pass through the hands of the treasurer of such committee, and shall be disbursed by him; and it shall be unlawful and a violation of this act for any committee, association or organization, or for any member or members thereof to disburse or expend money for any of the objects or purposes mentioned in this act until the money so disbursed or expended shall have passed through the hands of the treasurer of such committee, association or organization. (102 v. 321.)

Treasurer and duties of same.

SECTION 5175-10. Every treasurer of any committee, association or organization, and every person who shall at any time act as such treasurer, shall, whenever he receives or disburses money as such treasurer, or for or on account of any of the objects or purposes mentioned in this act, immediately enter and thereafter keep, in a proper book or books to be provided and preserved by him, a full, true and detailed statement and account of each and every sum of money so received or disbursed by him, setting forth in such statement each sum so received or disbursed, the object and purpose for which it was received or disbursed, and the person from whom it was received or to whom it was disbursed, as the case may be. Every individual receiving or disbursing money aggregating more than twenty dollars, for or on account of any of the objects and purposes mentioned in this act, unless he receives it from or pays it to the treasurer of any committee, association or organization, shall in like manner keep in a book a detailed

Records and accounts.

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written account of his receipts and disbursements. Every treasurer and other person required to keep books of account under this act must preserve the same for a period of not less than two years after each election, transactions concerning which are recorded therein. (102 v. 321.)

Receipted bill  
and vouchers.

SECTION 5175-11. Every payment required to be accounted for shall, unless the total expense payable to any one person be not in excess of ten dollars, be vouched for by a receipted bill stating the particulars of expense, and every voucher, receipt or account hereby required shall be filed with such statement. (103 v. 579.)

Payment in  
name of  
another not  
allowed.

SECTION 5175-12. No person shall, directly or indirectly, himself or through another person, make a payment or promise of payment to any committee, association or organization, or to any person acting under its authority or in its behalf, in any name except its own, nor shall such committee or person knowingly receive a payment or promise of payment, or enter or cause the same to be entered in the accounts or records of such committee, in any other name than that of the person by whom it is made. (102 v. 321.)

SECTION 5175-13. Any person or persons who shall violate any of the provisions of this act shall be held to be guilty of a corrupt practice and shall be punished as hereinafter provided. (102 v. 321.)

Petition and  
allegations  
for inves-  
tigation.

SECTION 5175-14. Upon presentation to the court of common pleas, or to a judge thereof, or to the probate judge, or to any judge of a court of insolvency, or a superior court of any city or county within this state, of a verified petition, alleging that some person or persons within such county have become subject to the requirements of this act in regard to filing statements or accounts of election expenses, and have failed to do so, or have filed false or incomplete statements or accounts, and upon the giving of security, as hereinafter provided, the said court or judge to whom such petition is presented, shall proceed to a summary investigation of the charges made in the petition as hereinafter set forth. Such petition need not be in any particular form, and it may allege such failure or incompleteness upon information and belief, without stating the source of such information and belief. But it shall name the person or persons from whom a statement or an amended statement is required, shall specify in detail some grounds of objections to the statement, or shall state some facts on which the demand for a statement is based, and of the information desired, and may make such further allegations as will tend to call the attention of the court and the person proceeded against to the particular question involved. (102 v. 321.)

Where peti-  
tion filed.

SECTION 5175-15. The petition provided for in the foregoing section may be filed by the attorney general of the state, the prosecuting attorney of the county, a candidate voted for at the election, in respect to which the allega-

## THE CORRUPT PRACTICES ACT.

tions in such petition may relate, or by any five resident and qualified voters, who voted at such election. (102 v. 321.)

SECTION 5175-16. At the time of presenting such petition, the petitioner or petitioners shall file with the clerk of such court, an undertaking in the sum of two hundred and fifty dollars with sureties to be approved by the court or judge thereof, or the clerk, conditioned to pay such costs in such proceeding as may be adjudged against such petitioner or petitioners; but nothing in this section contained shall require such undertaking to be filed by the attorney general or the prosecuting attorney of any county. (102 v. 321.)

Bond.

SECTION 5175-17. Upon presentation of such petition and the giving of the security provided for in the foregoing section, the court or judge shall forthwith issue an order, which shall be served personally upon the person or persons named in such petition or left at his or their last known place of residence not less than seventy-two hours prior to the return day thereof, and directing him or them to appear and show cause at a certain day within ten days after the service of the order, why such person or persons should not file a statement of election expenses, or amend the statement already filed, and to furnish the court or judge, such further information as the court may require on the subject. Copies of such order shall be mailed to the attorney general of the state and the prosecuting attorney of the county wherein such statement is required to be filed, except in cases where the attorney general of the state or prosecuting attorney of the county institutes the proceeding. (102 v. 321.)

Order.

SECTION 5175-18. Upon the return day mentioned in the order issued as provided in the foregoing section, the court or judge shall forthwith proceed to hear the evidence and testimony to sustain the demand or charges contained in such petition, together with such other demands or charges as shall be made during the course of the inquiry, and shall be relevant to the subject, and the evidence in answer thereto. (102 v. 321.)

Hearing.

SECTION 5175-19. The hearings upon such investigations shall, if practicable, be continued from day to day until the final determination of such inquiry. Subpoenas to witnesses to attend the hearings shall be issued and the attendance of such witnesses enforced and evidence offered by depositions, as in civil actions. The petitioner or any party may appear in person or by attorney, and any voter may become a party by filing the bond above mentioned. If, upon such hearing, it shall appear that a person or persons other than those originally proceeded against, have failed to file statements or accounts of election expenses, or have filed false or incomplete statements or accounts, such person or persons shall be made parties to the proceedings and ordered to attend and answer as if they were originally made parties. (102 v. 321.)

Parties.

**Decision.** SECTION 5175-20. Within ten days after the close of the hearings upon such inquiry the court or judge shall render its or his decision thereon in writing, wherein shall be set forth whether the person or persons against whom the petition is brought is subject to the requirements of filing a statement or account of election expenses and has failed to file, or has filed a false or incomplete statement, and whether such failure to file, or the filing of such false or incomplete statement is due to wilful intent to defeat the requirements of this act. (102 v. 321.)

**Contempt.** SECTION 5175-21. If such person or persons have failed to file such statement or account, or have filed a false or incomplete statement or account, the court or judge shall render judgment requiring the person or persons proceeded against to file the required statement or amendment within ten (10) days after the entry of the judgment, and to pay the costs of the proceeding; and a failure or a refusal to comply with the order of the court in this respect shall be deemed a contempt of court. If such person or persons have failed to file a statement or have filed a false or incomplete statement, and such failure to file, or such false or incomplete statement, was due, in the opinion of such court or judge, to a wilful intent to defeat the provisions of this act, the court or judge shall forthwith transmit a copy of its or his decision and of the evidence to the prosecuting attorney of the county wherein such statement should be filed, and to the attorney general when such statement should be filed with the secretary of state, with directions to such prosecuting attorney to present the same to the next grand jury in the county. (102 v. 321.)

**Wilful intent.** SECTION 5175-22. Failure to file a statement or filing a materially false or incomplete statement, shall be prima facie evidence of wilful intent to defeat the statute. (102 v. 321.)

**Limitation.** SECTION 5175-23. The petition hereinbefore mentioned shall be filed within ninety days after such election. (103 v. 579.)

**Precedence of proceeding.** SECTION 5175-24. The proceedings upon, and the investigation of, the charges set forth in said petition, shall take precedence and be preferred over all other actions or proceedings then pending in said court, or before said judge; and, in case of appeals, in the circuit court or supreme court. (102 v. 321.)

**Appeals.** SECTION 5175-25. Appeals may be taken to the circuit court from the orders herein provided for in the same manner as in civil action under section 12224 of the General Code. (102 v. 321.)

**Defining corrupt practices.** SECTION 5175-26. Any person is guilty of a corrupt practice if he, directly or indirectly, by himself or through any other person, in connection with, or in respect of any election, pays, lends or contributes, or offers or promises to pay, lend or contribute any money or other valuable con-

## THE CORRUPT PRACTICES ACT.

sideration, for any other purpose than the following matters and services, at their reasonable, bona fide and customary value:

Rents of halls and compensation of speakers, music and fireworks for public meetings, and expenses of advertising the same, together with the usual expense incident thereto;

The preparation, printing and publication of posters, lithographs, banners, notices and literary material, reading matter, cards and pamphlets, the compensation of agents to supervise and prepare articles and advertisements in the newspapers, to examine questions of public interest bearing on the election, and the report on the same; the pay of newspapers for advertisements, pictures, reading matter and additional circulation; the preparation and circulation of letters, pamphlets and literature bearing on election. The transportation to and from the polling place by or under authority of the regular executive committee of a political party, or issue, of any qualified elector physically infirm, or of such inmates of soldiers' and sailors' homes who are otherwise unable by reason of physical infirmity to go to the polls, and who have a physician's certificate of such infirmity.

Hauling soldiers and sailors not corrupt practice.

Rent of offices and club rooms, compensation of such clerks and agents as shall be required to manage the necessary and reasonable business of the election and of attorneys at law for actual legal services rendered in connection with the election; the preparation of lists of voters and payment of necessary personal expenses by a candidate; the reasonable traveling expenses of the committeemen, agents, clerks and speakers; postage, express, telegrams and telephones; the expenses of preparing, circulating and filing petitions for nomination. No party organization or candidate shall compensate or hire in any one election precinct more than one person to prepare lists of voters.

Any payment, contribution or expenditure or agreement or offer to pay, contribute or expend any money or thing of value for any purpose whatsoever except as herein provided is hereby declared to be corrupt practice and invalidates the election of any person guilty thereof. (106 v. 437.)

SECTION 5175-27. Any person or corporation who directly or indirectly:

1. Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict, any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting at any election, or to vote or refrain from voting for or against and particular person or persons, or for or against any proposition submitted to the voters at such election, or to place or cause to be placed, or to refrain from placing or causing to be placed, his name upon a registry of voters, or

Defining corrupt practices.

## THE CORRUPT PRACTICES ACT.

on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election or having registered or refrained from registering as a voter; or,

Defining corrupt practice.

2. By abduction, duress or any forcible fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces or prevails upon any voter to give or retain from giving his vote for or against any particular person at any election; or,

3. Being an employer, pays his employes the salary or wages due in envelopes upon which there is written or printed any political motto, device or argument containing threats, expressed or implied, intended or calculated to influence the political opinions or actions of such employes, or within ninety days of a general election exhibits in the establishment or place where his employes are engaged in labor, any handbill or placard containing any threat, notice or information, that if any particular ticket or candidate is elected or defeated, work in his place or establishment will cease in whole or in part, his establishment be closed up, or the wages of his employes reduced, or other threats, expressed or implied, intended or calculated to influence the political opinions, actions or votes of his employes, is guilty of corrupt practice.

4. Being the owner, editor or writer of any newspaper, magazine, society, religious or trade publication, or any other publication of any description, whether published regularly or irregularly, by an incorporated company, joint stock company, partnership or individual within or without the state of Ohio, using the columns of any such publication for the printing of any demand, or demands for promises, pledges, or committals from candidates for office or printing threats, direct or implied, in the columns of any such publications, for the purpose of leading, controlling, or intimidating candidates for office, or sending letters, petitions, circulars or telegrams from any officer, writer, agent or representative of any such publications to candidates for office, soliciting, requesting, or demanding promises, pledges or committals for any purpose or for any reason, or the making of any demand or request verbally and personally by any officer, writer, agent or representative of any such publications, for promises, pledges or committals from any candidate for office, or the soliciting or receiving of money or its equivalent, or anything valuable in the shape of presents of horses, vehicles, motor cars, jewelry, real estate, bonds, stocks, certificates of interest, certificates of deposit, insurance policies, railroad passes, theatre passes, baseball passes, furniture or furnishings for residence or office, clothing, furs, or anything else of value.

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from candidates for office by any officer, writer, agent or representative of any such publications, is guilty of a corrupt practice. (102 v. 321.)

SECTION 5175-28. Any person, who while holding a public office, or being nominated or seeking a nomination or appointment therefor, corruptly uses or promises to use directly or indirectly, any official authority or influence possessed or anticipated, in the way of conferring upon any person, or in order to secure, or aid any person in securing, any office or public employment, or any nomination, confirmation, promotion or increase of salary, upon consideration that the vote or political influence or action of the person so to be benefited or of any other person, shall be given or used in behalf of any candidate, officer, or party or upon any other corrupt conditions or consideration, is guilty of a corrupt practice. (102 v. 321.)

Defining  
corrupt  
practices.

SECTION 5175-29. The total amount expended by a candidate for public office, voted for at an election, by the qualified electors of the state, or any political subdivision thereof, for any of the purposes specified in section 26 of this act, for contributions to political committees, as that term is defined in section 1 of this act, or for any purpose tending in any way, directly or indirectly, to promote or aid in securing his nomination and election, shall not exceed the amount specified herein; by a candidate for governor, the sum of five thousand dollars; by a candidate for other state elective office the sum of two thousand five hundred dollars; by a candidate for the office of representative in congress or presidential elector, judge of the court of appeals, the sum of two thousand dollars; by a candidate for the office of state senator, the sum of three hundred dollars in each county of his district; by a candidate for judge of common pleas, probate or insolvency court, the sum of five hundred dollars; by a candidate for the office of state representative the sum of three hundred and fifty dollars; by a candidate for any other public office to be voted for by the qualified electors of a county, city, town or village, or any part thereof, if the total number of votes cast therein for all candidates for the office of governor at the last preceding state election, shall be five thousand or less, the sum of three hundred dollars. If the total number of votes cast therein at such last preceding state election be in excess of five thousand, the sum of five dollars for each one hundred in excess of such number may be added to the amounts above specified. Any candidate for a public office who shall expend for the purpose above mentioned an amount in excess of the amounts herein specified shall be guilty of a corrupt practice. (103 v. 580.)

Amount of  
expenditure  
allowed can-  
didates.

SECTION 5175-29a. The total amount expended, contributed or paid, or offered or promised to be paid, contributed or expended by an individual other than a candidate for public office as defined in section 5175-29, for any of the

Amount of  
expenditure or  
contribution  
by person  
other than a  
candidate.

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purposes specified in section 5175-26, or contributions to political committees, or for any other purpose tending in any way, directly or indirectly, to promote or aid in securing, or to aid or take part in defeating, the nomination, the election, or the nomination and election of any candidate for public office voted for at any election in the state shall not exceed ten per cent. of the annual salary of such candidate so voted for as aforesaid and for whom, or against whom, such contributions, payment or expenditure is made, but nothing in this section contained shall apply to the treasurer of any political committee acting in his official capacity. Any person who shall expend for the purposes above mentioned an amount in excess of the amount herein specified shall be guilty of a corrupt practice. (103 v. 581.)

Expenditure allowed upon submission of a proposition.

SECTION 5175-29b. The total amount paid, lent, contributed or promised to be paid, lent, or contributed by any person, directly or indirectly, by himself or through any other person in connection with and in respect of an election at which a proposition is submitted to, and voted upon by the electors of the state or any political subdivisions thereof, shall not exceed the sum of one hundred dollars, providing the total vote cast for governor at the last preceding election in the state, county, city, town or village, or part thereof, wherein said election is held shall be five thousand or less. If the total number of votes cast therein at such last preceding election be in excess of five thousand, the sum of one dollar for each one hundred votes in excess of five thousand may be added to said amount of one hundred dollars. Any person who shall expend for the purposes above mentioned an amount in excess of the amounts herein specified shall be guilty of a corrupt practice. (103 v. 581.)

## SAFEGUARDING PETITIONS.

A copy of proposed law or amendment to be filed with secretary of state.

SECTION 5175-29c. Whoever seeks to propose a law or constitutional amendment by initiative petition or to file a referendum petition against any law, section, or item in any law, may file a duly verified copy of the proposed law, constitutional amendment or the law, section, or item to be referred, together with a synopsis of the same with the secretary of state before circulating such petition. If such copy is not filed with the secretary of state, the persons primarily directing the circulation of such initiative or referendum petition shall within ten days after commencing the circulation of such petition, file with the secretary of state a written notice setting forth the date when such circulation was commenced, and embodying the title and text of such law, section, item or constitutional amendment, and signed by one of the persons promoting the circulation of said petition. (104 v. 119.)

Designation of size of paper and type and arrangement of petition.

SECTION 5175-29d. The secretary of state shall upon application forthwith designate a convenient size for the sheets of paper and size of type to be used in printing in-

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initiative, supplementary and referendum petitions provided for in article II, section 1a and section 1g of the constitution, and the form and general order of arrangement of such petitions. Such designation shall be uniform with respect to all petitions to be voted on at the same election. (104 v. 119.)

SECTION 5175-29e. Ten or more qualified electors of the state may, by a written communication, submit any proposed law or constitutional amendment to the Legislative Reference Department for examination. If such department finds such law or constitutional amendment correct as to form, it shall so certify and such certification shall be printed immediately, under the text of the law or constitutional amendment.

Submission of proposed law or amendment to Legislative Reference Department.

Whoever proposes to file an initiative or referendum petition may submit to the attorney general a fair and impartial synopsis of such proposed law or amendment and if such synopsis is a truthful statement of the contents and purpose of such proposed law or amendment he shall so certify. Such synopsis together with the attorney general's certification may be printed in capital letters immediately following the notice provided for in section 5175-29f. The text of the proposed law or amendment shall be printed in full at the end of each part of the petition. (104 v. 120.)

Certification of synopsis by attorney general.

SECTION 5175-29f. At the top of each part of the petition the following words shall be printed in red.

Words which shall be printed in red.

NOTICE.

Whoever knowingly signs this petition more than once, signs a name other than his own or signs when not a legal voter is liable to prosecution. (104 v. 120.)

SECTION 5175-29g. Immediately preceding the text of such proposed law or amendment, the following statement, which shall include the signature and address of the solicitor, must appear, properly filled out.

Statement to be made by solicitor.

In consideration for my services in soliciting signatures to this petition I have received or expect to receive from  
.....  
of .....

(Insert whatever of value has been received, or is expected to be received.)

Signed .....  
Solicitor.

Address .....

(104 v. 120.)

SECTION 5175-29h. No part of a petition as far as possible, shall contain the names of electors from more than one county, and all the parts of the petition from each county from which there are signatures shall be so arranged and filed together, that the quota of each county may be easily separated from that of other counties.

Part petition should not contain names from more than one county; transmittal to deputy state supervisors.

## THE CORRUPT PRACTICES ACT — SAFEGUARDING PETITIONS.

When any supplementary or referendum petition is filed with the secretary of state, the latter shall at once transmit to the board of deputy state supervisors of elections of each county, from which there appears names of electors on any part petition filed with him, the part petitions containing the signatures of electors from that county. (104 v. 120.)

Petitions open to public inspection.

SECTION 5175-29i. As soon as the board of deputy state supervisors of elections of a county receives the parts of the petitions transmitted by the secretary of state, it shall keep the same open to public inspection until the time it is required to return the same to the secretary of state.

Comparison of signatures and report to secretary of state.

In any county containing a city or cities wherein a general registration of voters is required by law, the board of deputy state supervisors of elections of such county shall carefully compare the names of the electors who signed the parts of the petition and who reside in such city, or cities, with the registration lists. If any names appear on the parts of the petition which are not upon the registration lists, such board shall, unless satisfied that the petitioner in question is an elector of said county and qualified to sign the petition, make a note thereof in its report to the secretary of state. It shall also scrutinize all parts of the petition, whether from a city or other political subdivision within the county, for repetition of signatures, illegal signatures and for the omission of any of the formal or other requisites set forth in the constitution. If said board shall find any signature or signatures insufficient, it shall make a note opposite such signature or signatures to that effect, and notify the person or persons who solicited such signatures, or other person or persons interested in the circulation of the part of the petition containing such signatures, of the insufficiency of the same.

Procedure by board when signatures insufficient.

Hearing to establish insufficiency of signatures.

The board of deputy state supervisors of election of said county shall proceed to establish the insufficiency of such signatures in an action before the court of common pleas of such county, which must be brought within three days after the aforesaid notice is served and heard forthwith by the judge of said court, whose decision in the case shall be final. In counties having more than one judge of the court of common pleas, it shall be the duty of the presiding judge to designate the judge before whom such action shall be brought. If the signatures are adjudged sufficient they must be included with the others by the board of deputy state supervisors of election of the county; if they are found insufficient they shall not be so included.

Time within which insufficiency shall be proved and additional signatures filed.

The petition and signatures upon the parts of the petition, properly verified, shall be presumed to be in all respects sufficient, unless not later than forty days before the election their insufficiency shall be proved, as herein provided, and in such event ten additional days shall be allowed by the secretary of state after such petition or parts of petition have been returned, for the filing of additional signatures to such petition.

## THE CORRUPT PRACTICES ACT — SAFEGUARDING PETITIONS.

Within twenty-five days after the date when the parts of the petition were transmitted to it by the secretary of state, but not less than fifty days before the election, said board shall return the parts of the petition to the secretary of state, with a certification of the total number of sufficient signatures thereon. The number so certified shall be used by the secretary of state in determining the total number of signatures to the petition, which he shall record and announce. The signatures to the petition and parts of the petition, when so certified, shall be in all respects sufficient. (106 v. 295.)

When petition must be returned to secretary of state; certification.

SECTION 5175-29k. The petitioners may designate, in any initiative, supplementary or referendum petition, a committee of not less than three nor more than five of their number, who may represent them in all matters connected with such petitions. Notice of all matters or proceedings pertaining to said petitions may be served on said committee or any of them, either personally or by registered mail, or by leaving the same at the usual place of residence of each of them. (104 v. 121.)

Designation of committee to represent petitioners.

SECTION 5175-29m. (1) The circulator, or his agent, of an initiative, supplementary or referendum petition, or a petition for additional signatures, for the submission of a constitutional amendment, proposed law, law, section or item of any law at a state election, shall, within twenty days after such petitions are filed with the secretary of state, file with such secretary a sworn itemized statement showing in detail:

Sworn statement of circulator filed with secretary of state.

(a) All money or things of value paid, given or promised for circulating such petition.

(b) All appointments, promotions or increases in salary in positions not provided for by the constitution or laws of Ohio or any municipality therein, which were given or promised, or to obtain which assistance was given or promised as a consideration for work done in circulating petitions.

(c) Full names and addresses of all persons to whom such payments or promises were made.

(d) Full names and addresses of all persons who contributed anything of value to be used in circulating such petitions.

(e) Time spent and salaries earned while soliciting signatures to petitions by persons who were regular salaried employes of some person and whom said employer authorized to solicit as a part of their regular duties.

(2) Such statement shall be open to public inspection for a period of one year.

(3) The statement provided for by this section shall not be required from persons who take no other part in circulating a petition than making affidavits to parts of the petition and soliciting signatures to the same. (104 v. 122.)

## THE CORRUPT PRACTICES ACT — SAFEGUARDING PETITIONS.

What constitutes corrupt practices relative to I. and R. petitions.

SECTION 5175-29n. Whoever directly or indirectly:

(1) Wilfully misrepresents the contents of any initiative, supplementary or referendum petition; or

(2) Pays or offers to pay any elector anything of value for signing an initiative, supplementary or referendum petition; or

(3) Promises to help another to obtain appointment to any office provided for by the constitution or laws of Ohio or any municipality therein as a consideration for obtaining or preventing signatures to an initiative, supplementary or referendum petition; or

(4) Obtains or prevents signatures to any initiative, supplementary or referendum petition as a consideration for the assistance or promise of assistance, of another person in securing an appointment to any position provided for by the constitution or laws of Ohio or any municipality therein; or

(5) Alters or adds to or erases any signatures or names, on the parts of a petition after such parts have been filed with the secretary of state; or

(6) Fails to fill out truthfully the blank statement provided in section 5175-29g; or

(7) Fails to file the sworn itemized statement required in section 5175-29m; or

(8) Being a member or an employe of a board of deputy state supervisors of elections wilfully reports any genuine signature on a part of a petition as fraudulent or knowingly refuses or neglects to report any fraudulent signatures is guilty of corrupt practice. (104 v. 122.)

Penalties for violations of act safeguarding I. and R. petitions.

SECTION 5175-29o. (1) Whoever knowingly signs an initiative, supplementary or referendum petition, more than once, signs a name other than his own, or signs when not a legal voter, shall, upon conviction, be fined not more than one hundred dollars.

(2) Whoever accepts anything of value for signing an initiative, supplementary or referendum petition shall upon conviction be fined not to exceed twenty-five dollars.

(3) Whoever sells, purchases, steals, attempts to steal, or wilfully destroys or mutilates an initiative, supplementary or referendum petition or a part thereof which is being or has been lawfully circulated shall upon conviction be fined not to exceed five hundred dollars or be imprisoned in the penitentiary not more than five years. The words "sells and purchases" shall not be construed to apply to persons paying or receiving pay for soliciting signatures to, or circulating a petition, or parts of a petition.

(4) Whoever directly or indirectly, by intimidation or threats influences or seeks to influence any person to sign or abstain from signing or to circulate or abstain from circulating an initiative, supplementary or referendum petition shall, upon conviction, be fined not more than one hundred dollars.

Whoever fails to file the notice required in section 5175-29c shall, upon conviction, be fined not more than one hundred dollars. (104 v. 123.)

## ILLEGAL VOTING.

SECTION 5175-29p. Corrupt practices as defined in this act shall be punished as provided in section 13323-1 of the General Code. (104 v. 123.) (See below.)

Punishment.

SECTION 5175-29q. Excerpts of this act applying to circulators, and forms for the statements required to be filed by this act, shall be prepared by the secretary of state and furnished to prospective circulators free upon application. (104 v. 123.)

Excerpts of law and forms furnished by secretary of state.

SECTION 5175-29r. Section 5175-29c to section 5175-29q inclusive shall apply only to petitions and elections upon petitions upon which it is necessary to file signatures from each of one-half of the counties of the state. (104 v. 124.)

Petitions to which certain sections apply.

SECTION 13323-1 Any person convicted of a corrupt practice under this act shall be fined not less than one hundred dollars and not more than five hundred dollars, or imprisoned in the county jail not to exceed six months, or both; and if he shall have been elected to office, he shall in addition thereto forfeit such office. (102 v. 321.)

Penalty.

SECTION 13323-2. No person shall be excused from attending and testifying, or from producing any books, papers or other documents before any court or judge upon any trial, investigation, or hearing under the provisions of this act, upon the ground, or for the reason that the testimony or evidence, documentary or otherwise, required of him, may tend to convict him of a crime, or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture, for or on account of any transaction, matter or thing concerning which he may so testify, or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation or proceeding. (102 v. 321.)

Incrimination no excuse from testifying.

SECTION 13323-3. All prosecutions under this act must be commenced within one year after the commission of the act complained of. (102 v. 321-331.)

## ILLEGAL VOTING.

SECTION 13250. Whoever votes or attempts to vote more than once at the same election shall be imprisoned in the penitentiary not less than one year nor more than five years. (R. S. Sec. 7050.)

Voting more than once at same election.

SECTION 13251. Whoever votes at an election, not having been a resident of this state for one year next preceding such election, shall be imprisoned not less than one month nor more than six months. (R. S. Sec. 7051.)

Voting without one year's residence.

SECTION 13252. Whoever, being a resident of another state, votes or attempts to vote at an election in this state, shall be imprisoned in the penitentiary not less than one year nor more than five years. (R. S. Sec. 7049.)

Voting, a resident of another state.

SECTION 13253. Whoever, being a resident of this state, votes in a county in which he has not been an actual resident for thirty days next preceding the election, shall be

Voting, not a resident of the county thirty days.

## PROCURING ILLEGAL VOTE.

imprisoned in the penitentiary not less than one year nor more than three years. (R. S. Sec. 7048.)

Voting, not a resident of the precinct twenty days.

SECTION 13254. Whoever votes at an election in a precinct into which he has come for temporary purposes, or, being an unmarried man, has not resided therein for twenty days next preceding such election, shall be fined not more than five hundred dollars or imprisoned not less than three months nor more than six months. (R. S. Sec. 7047.)

Voting, not being twenty-one years of age.

SECTION 13255. Whoever votes at an election, knowing that he is not twenty-one years of age, shall be imprisoned not less than one month nor more than six months. (R. S. Sec. 7051.)

Voting, not being a citizen.

SECTION 13256. Whoever votes at an election, knowing that he is not a citizen of the United States, shall be imprisoned not less than one month nor more than six months. (R. S. Sec. 7051.)

Voting, being under conviction of crime.

SECTION 13257. Whoever, being disqualified by conviction of crime and not restored to all the rights of a citizen, votes at an election, shall be imprisoned not less than one month nor more than six months. (R. S. Sec. 7051.)

Voting by impersonating another.

SECTION 15258. Whoever impersonates another person, real or fictitious, living or dead, and votes or attempts to vote at an election as an elector in the name of such person, shall be imprisoned in the penitentiary not less than two years nor more than five years. (R. S. Sec. 7055.)

## PROCURING ILLEGAL VOTE.

Non-resident of state.

SECTION 13259. Whoever counsels or advises another to vote at an election, knowing that he has not been a resident of this state for one year next preceding such election, shall be fined not less than one hundred dollars nor more than five hundred dollars and imprisoned not less than one month nor more than six months. (R. S. Sec. 7052.)

Non-resident of county.

SECTION 13260. Whoever procures, aids, assists, counsels or advises another person to go or come into a county for the purpose of voting therein, knowing that such person is not qualified to vote therein, shall be imprisoned in the penitentiary not less than one year nor more than five years. (R. S. Sec. 7053.)

Not of legal age.

SECTION 13261. Whoever counsels or advises another person to vote at an election, knowing that at the time of such election such person is not twenty-one years of age, shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned not less than one month nor more than six months. (R. S. Sec. 7052.)

Not a United States citizen.

SECTION 13262. Whoever counsels or advises another person to vote at an election, knowing that such person is not a citizen of the United States, shall be fined not less than one hundred dollars nor more than five hundred dol-

## BALLOTS.

lars or imprisoned not less than one month nor more than six months. (R. S. Sec. 7052.)

SECTION 13263. Whoever counsels or advises another person to vote at an election, knowing that by reason of any disability other than those named in the next four preceding sections, such person is not duly qualified to vote at the place where and time when such vote is to be given, shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned not less than one month nor more than six months. (R. S. Sec. 7052.)

Other disabilities.

## BALLOTS.

SECTION 13264. Whoever, either before or after proclamation is made at the opening of the polls, fraudulently puts a ballot or ticket into the ballot box, shall be imprisoned in the penitentiary not less than two years nor more than five years. (R. S. Sec. 7055.)

Putting a fraudulent ballot in box.

SECTION 13265. Whoever, knowingly votes or attempts to vote a ballot other than an official ballot lawfully obtained by him, shall be fined not less than two hundred and fifty dollars nor more than one thousand dollars, or imprisoned not less than thirty days nor more than six months, or both. (89 v. 449 § 26; R. S. Sec. 7063.)

Voting ballot other than official.

SECTION 13266. Whoever fraudulently or deceitfully changes a ballot of an elector, by which such elector is prevented from voting for such candidate as he intends to do, shall be imprisoned in the penitentiary not less than one year nor more than three years. (R. S. Sec. 7054.)

Fraudulently changing a ballot of an elector.

SECTION 13267. Whoever, at an election, marks the ballot of an elector or hands a marked ballot to him to vote, with intent to ascertain how he voted, shall be fined not more than fifty dollars and imprisoned not more than ten days. (R. S. Sec. 7063.)

Marking a ballot of an elector unlawful.

SECTION 13268. Whoever endeavors to induce an elector, after voting at an election, to show how he marked his ballot at such election, shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned in jail not more than six months, or both. (89 v. 450 § 30.)

Inducing an elector to show how he marked his ballot.

SECTION 13269. Whoever, being an elector, allows his ballot to be seen by another except as provided by law, with an apparent intention of letting it be known how he is about to vote, shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned in jail not more than six months, or both. (89 v. 450 § 30.)

Elector permitting ballot to be seen.

SECTION 13270. Whoever, at an election, interferes or attempts to interfere with an elector when inside the enclosed place, or when marking his ballot, shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned in jail not more than six months, or both. (89 v. 450 § 30.)

Interfering with an elector when marking his ballot.

## BALLOTS.

Elector marking ballot so as to be identified.

SECTION 13271. Whoever, being an elector, purposely marks his ballot so it may be identified after it has been cast shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned in jail not more than six months, or both. (89 v. 450 § 30.)

Elector making false statement as to inability to mark ballot.

SECTION 13272. Whoever, being an elector, makes a false statement as to his inability to mark his ballot, shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned in jail not more than six months or both. (89 v. 450 § 30.)

Having in possession a ballot illegally obtained.

SECTION 13273. Whoever knowingly has in his possession an official ballot illegally obtained shall be fined not less than two hundred and fifty dollars nor more than one thousand dollars or imprisoned not less than thirty days nor more than six months, or both. (89 v. 449 § 26.)

Election officer deceiving an elector in marking his ballot.

SECTION 13274. Whoever, being an election officer, deceives an elector in marking his ballot, or marks it other than he is lawfully requested to do by such elector, shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned in jail not more than six months, or both. (89 v. 450 § 30.)

Forging official endorsement on ballot.

SECTION 13275. Whoever forges or falsely makes the official endorsement on a ballot shall be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned in jail not more than one year, or both. (89 v. 449 § 28.)

Tearing down, etc., specimen ballot, etc.

SECTION 13276. Whoever wilfully defaces, tears down, removes or destroys a card of instruction or specimen ballot posted for the instruction of voters shall be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned in jail not more than one year, or both. (89 v. 449 § 28.)

Destroying lawful ballot.

SECTION 13277. Whoever wilfully destroys or defaces a lawful ballot shall be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned in jail not more than one year, or both. (89 v. 449 § 28.)

Removing ballot outside of enclosure

SECTION 13278. Whoever takes, removes or is found in possession of a lawful ballot outside of the enclosure provided for voting, before the polls have been closed, shall be fined not less than one hundred dollars, nor more than one thousand dollars or imprisoned in jail not more than one year, or both. (89 v. 449 § 28.)

Delaying delivery of ballot.

SECTION 13279. Whoever wilfully hinders or delays the delivery of a lawful ballot to a person entitled to receive it shall be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned in jail not more than one year, or both. (89 v. 449 § 28.)

Distributing an unlawful ballot.

SECTION 13280. Whoever distributes to an elector a ballot printed or written contrary to the provisions of law shall be fined not more than fifty dollars and imprisoned not more than ten days. (R. S. Sec. 7063.)

## JUDGES AND CLERKS.

SECTION 13281. Whoever prints for distribution a ballot contrary to the provision of law shall be fined not more than fifty dollars and imprisoned not more than ten days. (R. S. Sec. 7063.)

Printing an unlawful ballot.

SECTION 13282. Whoever, being employed to print or engaged in printing the official ballot, prints or causes or permits to be printed, an official ballot other than according to the copy furnished him by the clerk of the board of elections or such board, or a false or fraudulent ballot, or appropriates, gives, delivers or knowingly permits to be taken away any of such ballots by a person other than such clerk, or board, or wilfully seals up, or causes or permits to be sealed up or delivers to such clerk or board, a less number of ballots than the number endorsed thereon, shall be fined not less than two hundred and fifty dollars nor more than one thousand dollars, or imprisoned not less than thirty days nor more than six months, or both. (89 v. 449 § 26.)

Further offenses pertaining to printing of ballots.

SECTION 13283. Whoever, being a judge or clerk of election, printer or other person entrusted with the custody or delivery of ballots, blanks, poll-books, cards of instruction or other required papers, unlawfully opens or permits to be opened, a sealed package containing ballots, or gives or delivers to another not lawfully entitled thereto, or unlawfully misplaces or carries away, or negligently loses or permits to be taken from him or fails to deliver, or, except as by law provided, destroys such package of ballots, or a ballot, poll-books, card of instruction or other required paper, shall be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned in jail not more than one year, or both. (89 v. 449 § 27.)

Offenses pertaining to custody or delivery of ballots, blanks, poll-books, cards of instruction, etc.

## JUDGES AND CLERKS.

SECTION 13284. Whoever, being a judge of election, knowingly permits a ballot or ticket, fraudulently placed in a ballot-box, if it can be designated, to be counted with the legal votes cast at such election, shall be imprisoned in the penitentiary not less than one year nor more than three years. (R. S. Sec. 7057.)

Judges of election knowingly counting fraudulent votes.

SECTION 13285. Whoever, being a judge of election, after the counting of votes commences as required by law, postpones the counting of such votes, adjourns for any time or to any place, or removes the ballot-box from the place of voting or the custody or presence of all the judges of such election, shall be fined not less than one hundred dollars, nor more than one thousand dollars and imprisoned not more than ten days. (R. S. Sec. 7056.)

Judges postponing counting, adjourning or removing ballot box.

SECTION 13286. Whoever, being a judge of election, permits a ballot or ticket to remain or be in the ballot box at the opening of the polls, or be put therein during the receiving, counting and certifying the ballots, except when lawfully presented by an elector during an election, shall

Judge permitting ballots in box at opening of polls.

be imprisoned in the penitentiary not less than two years nor more than five years. (R. S. Sec. 2926w.)

Judge refusing to take oath.

SECTION 13287. Whoever, being a judge of an election, refuses to take the oath prescribed by law, shall be fined not less than three hundred dollars nor more than one thousand dollars and imprisoned not less than three months nor more than six months. (R. S. Sec. 7058.)

Judge refusing to administer oath.

SECTION 13288. Whoever, being a judge of an election, refuses or sanctions the refusal of another judge of such election to administer an oath required by law, shall be fined not less than three hundred dollars nor more than one thousand dollars and imprisoned not less than three months nor more than six months. (R. S. Sec. 7058.)

Judge refusing lawful ballot.

SECTION 13289. Whoever, being a judge of an election, refuses to receive or sanctions the rejection of a ballot from a person, knowing him to have the lawful qualifications of an elector, shall be fined not less than three hundred dollars nor more than one thousand dollars and imprisoned not less than three months nor more than six months. (R. S. Sec. 7058.)

Judge refusing candidate or friends admission to polls.

SECTION 13290. Whoever, being a judge of an election, upon lawful request therefor, refuses to permit the respective candidates or not more than three friends of each thereof, to be present at such election in the room with the judges during the time of receiving and counting the ballots, shall be fined not less than three hundred dollars nor more than one thousand dollars and imprisoned not less than three months nor more than six months. (R. S. Sec. 7058.)

Judge of election receiving unlawful vote.

SECTION 13291. Whoever, being a judge of an election knowingly receives or sanctions the reception of a ballot from a person not an elector as prescribed by law, or receives or sanctions the reception of a ballot from a person refusing to answer a question in accordance with the laws, relating to elections, shall be fined not less than three hundred dollars nor more than one thousand dollars and imprisoned not less than three months nor more than six months. (R. S. Sec. 7058.)

Judge neglecting to forward notice.

SECTION 13292. Whoever, being one of the judges of election making an appointment of registrar, judge or clerk of election to fill a vacancy caused by absence or removal, neglects or fails to send notice thereof to the board of deputy state supervisors, or, whoever, being a person to whom such notice for such board may be given for delivery thereto, neglects or fails to deliver it promptly, shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned thirty days, or both. (R. S. Sec. 2926w.)

Judge or clerk distributing ballots inside polling room.

SECTION 13293. Whoever, being a judge or clerk of election, witness, challenger or other person admitted into the polling room at an election, and while therein, from the opening of the polls until the ballots are finally counted and

## REGISTRATION.

certified, distributes or gives to a person, brings therein or has in his possession or control, a ballot or ticket except that which he offers to the judges as his own vote if an elector, shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned in jail not less than thirty days nor more than one year. (R. S. Sec. 2926w.)

SECTION 13294. Whoever, being a judge or clerk of election, misleads an illiterate or blind elector, or an elector who is unable to prepare his ballot, or prepares a ballot for such elector otherwise than as directed by him, shall be fined not less than one hundred dollars nor more than one thousand dollars and imprisoned in jail not less than three months nor more than twelve months. (89 v. 450 § 29.)

Judge or clerk misleading voter.

SECTION 13295. Whoever, being a judge or clerk of election, discloses to any person except when legally required so to do, how a voter whose ballot he prepared directed such ballot to be prepared, or how such voter voted, shall be fined not less than one hundred dollars nor more than one thousand dollars and imprisoned in jail not less than three months nor more than twelve months. (89 v. 450 § 29.)

Judge or clerk disclosing how elector voted.

SECTION 13296. Whoever, being a judge or clerk of an election, on whom a duty is enjoined by law, wilfully neglects or corruptly executes such duty, if there is no penalty otherwise specifically provided, shall be fined not less than three hundred dollars nor more than one thousand dollars and imprisoned not less than three months nor more than six months. (R. S. Sec. 7058.)

Judge or clerk neglecting official duty.

## REGISTRATION.

SECTION 13297. Whoever fraudulently obtains or attempts to obtain registration as an elector in a precinct in which he is not a qualified elector shall be imprisoned in the penitentiary not less than one year nor more than three years. (R. S. Sec. 2926w.)

Fraudulent registrations.

SECTION 13298. Whoever knowingly induces or attempts to induce, aids or abets a person to obtain or apply for registration as an elector in a precinct where such person is not a qualified elector, shall be imprisoned in the penitentiary not less than one year nor more than three years. (R. S. Sec. 2926w.)

Inducing same.

SECTION 13299. Whoever, falsely personates or assumes the name of another, real or fictitious, living or dead, in obtaining or attempting to obtain registration in such assumed name as an elector, or falsely obtains or applies for registration as an elector in a name other than his own, or fraudulently aids or abets another committing or attempting to commit either of such offenses, shall be imprisoned in the penitentiary not less than two years nor more than five years. (R. S. Sec. 2926w.)

Obtaining registration by personating another.

## REGISTRATION.

Hindering  
registration.

SECTION 13300. Whoever fraudulently or unlawfully prevents, hinders or delays an elector from applying for registration as an elector in the precinct where such elector resides and is entitled to vote, or attempts so to do, with intent to deprive such elector of his right to vote, shall be fined not less than fifty dollars nor more than five hundred dollars, and imprisoned in jail not less than thirty days nor more than six months. (R. S. Sec. 2926w.)

Procuring un-  
lawful erasure  
in registration  
lists.

SECTION 13301. Whoever, by false statement or other unlawful means, procures, aids, or attempts to procure, the erasure or striking out on the register or duplicate list in a precinct of the name of a qualified elector therein, shall be imprisoned in the penitentiary not less than one year nor more than three years. (R. S. Sec. 2926w.)

Officer per-  
mitting false  
registration.

SECTION 13302. Whoever, being a registrar of electors, or other registering officer, enters or consents to the entry in a register or duplicate list of electors in a precinct, the name of a person whom he knows or has good reason to believe is not a qualified voter therein, shall be imprisoned in the penitentiary not less than one year nor more than five years. (R. S. Sec. 2926w.)

Inducing false  
registration.

SECTION 13303. Whoever, by gift, promise, offer, coercion, intimidation or other unlawful means, induces or influences, or attempts to induce or influence a registrar of electors or other registering officer, to enter in the register or duplicate list of electors in a precinct, the name of a person, real or fictitious, living or dead, who is not a qualified elector therein, shall be imprisoned in the penitentiary not less than one year nor more than three years. (R. S. Sec. 2926w.)

Officer re-  
fusing regis-  
tration.

SECTION 13304. Whoever, being a registrar of election, or other registering officer, upon request, refuses, neglects or hinders the registration of a qualified voter who offers to comply with the laws relating to registering, shall be imprisoned in the penitentiary not less than one year nor more than five years. (R. S. Sec. 2926w.)

Inducing  
same.

SECTION 13305. Whoever fraudulently induces a registrar or registering officer, to refuse registration in a precinct to an elector thereof, shall be imprisoned in the penitentiary not less than one year nor more than three years. (R. S. Sec. 2926w.)

Inducing reg-  
istrar to  
violate law.

SECTION 13306. Whoever, unlawfully prevents, hinders or delays a registrar or registering officer from registering a person lawfully entitled to be registered, or influences or induces such registrar or registering officer to violate, refuse or neglect the execution of a lawful rule or duty of his office, shall be imprisoned in the penitentiary not less than one year nor more than three years. (R. S. Sec. 2926w.)

## BRIBERY AND CORRUPTION.

SECTION 13307. Whoever acts as a registrar, judge or clerk of election without having received a certificate of appointment from the board of deputy state supervisors, except a judge and clerk appointed to fill a vacancy caused by absence or removal or whoever being so appointed, acts without notice thereof having been sent to such board, shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned thirty days, or both. (R. S. Sec. 2926w.)

Acting as registrar, judge, or clerk, without certificate of appointment.

SECTION 13308. Whoever, being an elector in a city in which registration of electors is required by law, having been selected by the board of deputy state supervisors as a registrar of electors, judge of election, additional judge of election, or clerk of election in such city, fails to appear for examination, as to his qualifications therefor, before such board at its office within twenty-four hours, after notice served personally upon him, or left at his usual place of residence, or having been appointed to one of the offices afore mentioned, refuses or neglects to take and subscribe the required oath of office, unless excused by such board, shall be fined not less than twentyfive dollars nor more than one hundred dollars or imprisoned in the county jail not more than fifteen days, or both. (R. S. Sec. 2926e.)

Failure of registrar, judge, etc., to appear before election board.

SECTION 13309. Whoever, being lawfully appointed registrar of election, fails to be at the place designated for registration in the precinct in which he resides during the hours set for the registration of electors, or fails to deposit the registers of electors at the office of the board of deputy state supervisors in accordance with law, or fails to post the printed list required by law, shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned in the county jail not more than fifteen days, or both. (R. S. Sec 2926e.)

Neglect of duty by registrar.

SECTION 13310. Whoever makes, issues, utters or publishes a false or counterfeit certificate of registration authorized by law to be granted by registrars of electors and boards of deputy state supervisors, or fraudulently alters such certificate granted by such officers, shall be imprisoned in the penitentiary not less than two nor more than five years. (R. S. Sec. 2926w.)

Counterfeiting registration certificates.

SECTION 13311. Whoever wilfully and corruptly swears or affirms falsely upon a lawful examination by or before a registrar or registering officer as provided by law, shall be imprisoned in the penitentiary not less than one year nor more than five years. (R. S. Sec. 2926w.)

Perjury before registrar.

## BRIBERY AND CORRUPTION.

SECTION 13312. Whoever gives or lends, or offers or promises to give, lend, procure or endeavor to procure money or other valuable consideration, to or for an elector or other person, to induce such elector to register or

Giving bribe.

refrain from registering for an election, or vote or refrain from voting at an election, or vote or refrain from voting at an election for a particular person, question or proposition, or on account of such elector having registered or refrained from registering, or voted or refrained from voting, or voted or refrained from voting for a particular person, question or proposition, shall be fined not more than five hundred dollars or imprisoned in the penitentiary not more than three years, or both, and shall forfeit the office to which he was elected at the election with reference to which such offense was committed. (89 v. 451 § 32; 98 v. 227 § 35.)

Same.

SECTION 13313. Whoever gives, offers or procures, or promises or endeavors to procure an office, place or employment to or for an elector or other person, in order to induce such elector to register or refrain from registering for an election, or vote or refrain from voting at an election, or vote or refrain from voting at an election for a particular person, question or proposition, or advances, pays or causes to be paid, money or other valuable thing to or for the use of another, with the intent that it or part thereof shall be used in bribery at an election, shall be fined not more than five hundred dollars or imprisoned in the penitentiary not more than three years, or both, and shall forfeit the office to which he was elected at the election with reference to which such offense was committed. (89 v. 451 § 32; 98 v. 227 § 35.)

Receiving  
bribe.

SECTION 13314. Whoever, being an elector, before, during or after an election, receives, agrees or contracts for money, gift, loan or other valuable consideration, office, place or employment, for himself or another for registering or agreeing to register, or refraining or agreeing to refrain from registering for an election, or for voting or agreeing to vote, or refraining or agreeing to refrain from voting at an election, or for voting or agreeing to vote, or refraining or agreeing to refrain from voting for a particular person, question or proposition at an election, shall be fined not more than five hundred dollars or imprisoned not more than one year, or both, and be excluded from the right of suffrage for five years next succeeding such conviction. (89 v. 451 § 33; 98 v. 227 § 35.)

Offender  
compelled  
to testify.

SECTION 13315. A person violating a provision of the next three preceding sections is a competent witness against another so offending, and may be compelled to testify upon a trial, hearing or investigation, but the testimony so given shall not be used in a prosecution or proceeding, civil or criminal, against the person so testifying, and he shall not be liable thereafter to indictment, prosecution or punishment for the offense with reference to which his testimony was given and the giving of such testimony shall bar such indictment or prosecution. (98 v. 227 § 35.)

## BRIBERY AND CORRUPTION.

SECTION 13316. Whoever, being a candidate for nomination to an office in a convention held as provided by law, pays or promises to pay money or property to a delegate for obtaining his influence or vote for such nomination, shall be fined not less than one hundred dollars nor more than five hundred dollars, and if nominated and elected to such office, shall forfeit it and be disqualified from voting or being nominated at such election or convention. (R. S. Sec. 7042.)

Bribery by candidate at nominating convention.

SECTION 13317. Whoever solicits, requests, demands or receives money, intoxicating liquor or other thing of value, or the promise thereof, to influence his vote, or to be used, or under the pretense of being used to procure the vote of another or to be used at a poll or other place prior to or on the day of a primary election for or against a candidate to be voted upon at such election, shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in the penitentiary for one year, or both. (97 v. 107 § 2; 99 v. 224 § 42.)

Receiving bribe at primary election.

SECTION 13318. Whoever gives money, property, fee or reward for the vote or influence of a person in favor of or against a candidate for nomination at an election held under the law relating to primary elections, shall be fined not less than one hundred dollars and imprisoned in the penitentiary not more than two years. (R. S. Sec. 7039.)

Giving bribe at same.

SECTION 13319. Whoever gives a reward, fee, money or property to influence the vote of a delegate or an elector in favor of or against a candidate, or for labor or service rendered or to be rendered to a candidate for nomination or election to an office, or for expense incurred in his behalf, shall be fined not more than five hundred dollars and imprisoned in the penitentiary not more than five years. (R. S. Sec. 7041.)

Bribery at nomination.

SECTION 13320. Whoever, being a corporation engaged in business in this state, directly or indirectly pays, uses, offers, or consents or agrees to pay or use money or property for, or in aid of a political party, committee or organization, or for or in aid of a candidate for political office, or for a nomination thereto, or uses money or property for any political purpose whatever, or for the re-imbursment or indemnification of any person or persons for money or property so used, shall be fined not less than five hundred dollars nor more than five thousand dollars. (99 v. 23, 24 §§ 1, 3.)

Money for political purposes by corporations.

SECTION 13321. Whoever, being an officer, stockholder, attorney or agent of a corporation violating the next preceding section, participates in, aids or advises such violation or solicits or knowingly receives money or property in violation of such section, shall be fined not more than one thousand dollars or imprisoned not more than one year, or both. (99 v. 24 § 3.)

Aid or advice in such case.

## PRIMARY ELECTION.

Annual report  
of corporation  
thereon.

SECTION 13322. Whoever, being a corporation for profit, violates any provision of the law requiring it to make out, have sworn to by an officer thereof who has knowledge of the facts, and file with the secretary of state, auditor of state or state superintendent of insurance, an affidavit respecting the use of its funds or property for political purposes, or its consent thereto, shall be fined not less than fifty dollars nor more than five hundred dollars. (99 v. 24 § 3.)

Witnesses  
under next  
three preced-  
ing sections.

SECTION 13323. A person violating any of the next three preceding sections is a competent witness against another person so offending and may be compelled to attend and testify on a trial, hearing, proceeding or investigation thereof. The testimony so given shall not be used in a prosecution or proceeding, civil or criminal, against the person so testifying nor shall such person, thereafter be liable to indictment, prosecution or punishment for the offense with reference to which his testimony was so given, and he may plead or prove the giving of such testimony in bar of such indictment or prosecution. (99 v. 24 § 3.)

## PRIMARY ELECTION.

Penalties ap-  
plying to pri-  
mary elec-  
tions.

SECTION 13324. All provisions and requirements of law to preserve and protect the purity of elections, and all penalties for the violation of such laws shall apply and be enforced as to all primary elections. (99 v. 224 § 43; R. S. Sec. 7045.)

Voting, not  
a qualified  
elector.

SECTION 13325. Whoever votes at a primary election when he can not become a qualified elector in such precinct at or before the next election, shall be fined not less than fifty dollars nor more than two hundred dollars or imprisoned not less than ten days nor more than sixty days, or both. (R. S. Sec. 7043.)

Voting, after  
objection  
made.

SECTION 13326. Whoever casts a ballot at a primary election after objection has been made and sustained to his vote, shall be fined not less than fifty dollars nor more than two hundred dollars or imprisoned not less than ten days nor more than sixty days, or both. (R. S. Sec. 7043.)

Voting, after  
a change in  
party.

SECTION 13327. Whoever votes at a primary election, not having voted at the last general election, held in an even-numbered year, with the political party with which he desires, or offers, to vote at such primary election, unless he is a first voter, or did not vote at such general election, shall be fined not less than one hundred dollars nor more than three hundred dollars or imprisoned in the penitentiary for one year, or both. (97 v. 107 § 1.)

Voting at cer-  
tain polling  
place.

SECTION 13328. Whoever votes at a primary election at a place other than at the polling place in the precinct wherein he resides, shall be fined not less than one hundred dollars nor more than three hundred dollars or imprisoned in the penitentiary for one year, or both. (97 v. 107 § 1.)

## PRIMARY ELECTION.

SECTION 13329. Whoever, not being a citizen of the United States, votes at a primary election shall be fined not less than fifty dollars nor more than two hundred dollars or imprisoned in jail not less than ten days nor more than sixty days, or both. (R. S. Sec. 7043.)

Voting, when  
not a citizen.

SECTION 13330. Whoever votes more than once at the same primary election, shall be imprisoned in the penitentiary not less than one year nor more than five years. (99 v. 223 § 38; 97 v. 107 § 1.)

Voting more  
than once.

SECTION 13331. Whoever votes at a primary election not being an elector resident of the precinct, ward or township in which he votes, shall be fined not less than one hundred dollars nor more than three hundred dollars or imprisoned in the penitentiary for one year, or both. (97 v. 107 § 1.)

Voting, not  
a resident.

SECTION 13332. Whoever votes or attempts to vote, or tenders to the judge of election, for deposit in the ballot box, a ticket at a primary election knowing that he is not a qualified elector, or votes under an assumed or false name, shall be imprisoned in the penitentiary not less than one year nor more than three years. (99 v. 223 § 36.)

Voting under  
false name,  
etc.

SECTION 13333. Whoever personates another for the purpose of voting, or attempts to vote at a primary election by claiming or assuming the name or place of an elector, shall be imprisoned in the penitentiary not less than one year nor more than five years. (99 v. 223 § 36.)

Impersonat-  
ing another.

SECTION 13334. Whoever, with intent to defraud or deceive, writes or signs the name of another person to any document, nomination paper or book, authorized or required by the laws relating to primary elections, shall be guilty of forgery and be imprisoned in the penitentiary not less than one year nor more than three years. (99 v. 223 § 36.)

Falsely sign-  
ing certain  
papers.

SECTION 13335. Whoever votes or attempts to vote at the primary election of a political party other than the political party with which he has affiliated as defined by law, shall be fined not less than fifty dollars nor more than five hundred dollars or imprisoned in jail not less than three months nor more than six months, or both. (99 v. 223 § 37.)

Voting with  
wrong politi-  
cal party.

SECTION 13336. Whoever attempts to intimidate an elector or a supervisor or judge of an election held under the laws relating to primary elections or interferes with or disturbs such election, shall be fined not more than one hundred dollars and imprisoned not less than twenty days nor more than thirty days. (R. S. Sec. 7040.)

Intimidating  
elector.

SECTION 13337. Whoever, being a supervisor or judge of a primary election, wilfully omits a duty imposed upon him by law, shall be fined not less than fifty dollars nor more than two hundred dollars or imprisoned in jail not less than ten days nor more than sixty days, or both. (R. S. Sec. 7043.)

Omission of  
duty by su-  
pervisor, or  
judge.

## MISCELLANEOUS.

Official refusing to perform duty.

SECTION 13338. Whoever wilfully refuses or neglects to perform a duty prescribed by the laws regulating the conduct of primary elections, for which no other penalty is provided by law, shall be fined not less than five dollars nor more than fifty dollars or imprisoned in the county jail not less than five days nor more than thirty days, or both. (99 v. 223 § 29.)

Refusing to testify.

SECTION 13339. Whoever, having been duly subpoenaed or ordered to appear before a grand jury, court, board or officer in a proceeding or prosecution upon complaint, information, affidavit or indictment, for an offense under the laws relating to primary elections, fails so to do, or having appeared, refuses to answer a question pertinent to the matter under inquiry or investigation, or refuses to produce, upon reasonable notice, any material, books, papers, documents or records in his possession or under his control, shall be fined not less than one hundred dollars nor more than five thousand dollars and imprisoned in jail not less than thirty days nor more than six months. (99 v. 224 § 44.)

Witness testifying exempt.

SECTION 13340. In a proceeding or prosecution brought under the laws relating to primary elections, if a person is called to testify, he shall be required to testify to all facts of which he has knowledge, and the fact that he has so testified shall forever be a bar to a prosecution brought against him for violating such laws as to such matters to which he may have testified. (99 v. 224 § 44; 97 v. 107 § 3.)

## MISCELLANEOUS.

Penalty for false affidavit verifying petitions.

SECTION 12842. Whoever, either orally or in writing on oath lawfully administered, wilfully and corruptly states a falsehood as to a material matter in a proceeding before a court, tribunal or officer created by law, or in a matter in relation to which an oath is authorized by law, including an oath taken by any person making any affidavit required for verifying or filing a nominating, initiative, supplementary or referendum petition, or part thereof, is guilty of perjury and shall be imprisoned in the penitentiary not less than one year nor more than ten years. (104 v. 7.)

Penalty for interfering with privileges of an elector on election day.

SECTION 12949. Whoever, being an employer, his officer, or agent, discharges an elector because he fails or refuses to labor on the first Tuesday after the first Monday in November, between the hours of twelve o'clock noon, central standard time, and five-thirty o'clock p. m. central standard time, or requires or orders any elector in his employ to accompany him to a voting place upon such day, or who refuses to permit such elector to serve as an election official on any election day, shall be fined not more than twenty-five dollars. (103 v. 94.)

## MISCELLANEOUS.

SECTION 13341. Whoever furnishes a ballot to an elector who can not read, informing him that it contains a name different from those which are written or printed thereon, with intent to induce him to vote contrary to his inclination, shall be imprisoned in the penitentiary not less than one year nor more than three years. (R. S. Sec. 7054.)

Deceiving elector who cannot read.

SECTION 13342. Whoever, at an election, speaks or attempts to speak to a person while within the guard rail, except as provided by law, shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned in jail not more than six months, or both. (89 v. 450 § 20.)

Attempting to speak to a person within the guard rail.

SECTION 13343. Whoever wilfully hinders or delays an elector from voting at an election, shall be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned in jail not more than one year, or both. (89 v. 449 § 28.)

Hindering another from voting.

SECTION 13343-1. Whoever writes, prints, posts or distributes, or causes to be written, printed, posted or distributed, a circular or advertisement which is designed to promote the election of a candidate, or to injure or defeat any candidate for election at any primary or any general election, or to influence the voters in any primary or any general election, or to influence the voters on any constitutional amendment, unless there appears on such circular or poster, or advertisement, in a conspicuous place, either the names of the chairman or secretary, or of two officers of the organization issuing the same, or of some voter who is responsible therefor with his name and address, shall be guilty of a misdemeanor and shall be fined not less than one hundred dollars, nor more than one thousand dollars, or imprisoned not more than one year, or both. (106 v. 350.)

Printing or posting anonymous attacks on candidates.

SECTION 13344. Whoever, within the boundaries of a municipality and within one hundred feet of the polling place of an election, loiters upon the streets, alleys or sidewalks during the receiving and counting of the ballots or hinders or delays an elector in reaching or leaving the place fixed for the casting of such ballots shall be fined not less than five dollars nor more than one thousand dollars or imprisoned in jail not less than five days nor more than thirty days, or both. The judges of election may order the arrest of a person violating this section, but such arrest shall not prevent such person from voting if entitled so to do. (R. S. Sec. 2938.)

Loitering, etc., near polls.

SECTION 13345. Whoever, during an election, wilfully removes or destroys any of the supplies or conveniences furnished to enable a voter to prepare his ballot, shall be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned in jail not more than one year, or both. (89 v. 449 § 28.)

Removing or destroying election supplies.

## MISCELLANEOUS.

Destroying  
certificate of  
election  
result.

SECTION 13346. Whoever, wilfully destroys, defaces or conceals a lawful certificate or statement of the result of an election entrusted to him or his care for delivery, shall be imprisoned in the penitentiary not less than two years nor more than five years. (R. S. Sec. 2926w.)

Publishing  
false state-  
ment of elec-  
tion results.

SECTION 13347. Whoever makes, issues, utters or publishes a false certificate, statement or proclamation of the result of an election, knowing it to be false, shall be imprisoned in the penitentiary not less than two years nor more than five years. (R. S. Sec. 2926w.)

Damage to or  
destruction of  
registers.

SECTION 13348. Whoever wilfully mars, damages or destroys a register of electors, or a portion thereof, shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned in the county jail not more than fifteen days, or both. (R. S. Sec. 2926e.)

Destroying  
certificate of  
nomination,  
etc.

SECTION 13349. Whoever, falsely makes or wilfully defaces or destroys a certificate of nomination, nomination paper or part thereof or a letter of withdrawal, or signs such certificate or paper contrary to law, or files a certificate of nomination, nomination paper or letter of withdrawal, knowing it or part thereof to be falsely made, or suppresses a certificate of nomination or nomination paper, or part thereof, which has been duly filed, shall be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned in jail not more than one year, or both. (89 v. 440 § 28.)

Fraudulent  
writing on  
poll books or  
tally sheets.

SECTION 13350. Whoever, from the time ballots are cast or voted until the time has expired for using them as evidence in a contest of election, wilfully and with fraudulent intent, inscribes, writes or causes to be inscribed or written in or upon a poll-book tally-sheet or list, lawfully made or kept at an election, or in or upon a book or paper purporting to be such, or upon an election return, or upon a book or paper containing such return, the name of a person not entitled to vote at such election or not voting thereat, or a fictitious name, or, within such time, wrongfully changes, alters, erases or tampers with a name, word or figure contained in such poll-book, tally-sheet, list-book or paper, or falsifies, marks or writes thereon with intent to defeat, hinder or prevent a fair expression of the will of the people at such election, shall be imprisoned in the penitentiary not less than one year nor more than three years. (R. S. Sec. 7061).

Destroying  
ballot box,  
ballots or  
poll-books.

SECTION 13351. Whoever, from the time ballots are cast or voted until the time has expired for using them as evidence in a contest of election, unlawfully destroys or attempts to destroy a ballot box or poll-book used at an election, or destroys, falsifies, marks or writes on a ballot cast or voted or changed, alters, erases or tampers with a name on a ballot cast or voted, shall be imprisoned in the penitentiary not less than one year nor more than five years. (R. S. Sec. 7060.)

## MISCELLANEOUS.

SECTION 13352. Whoever, at an election, unlawfully, either by force, fraud or other improper means, obtains or attempts to obtain possession of a ballot box or ballots therein deposited, while the voting at such election is going on or before the ballots therein are lawfully taken out and enumerated by the judges of election, shall be imprisoned in the penitentiary not less than one year nor more than three years. (R. S. Sec. 7059.)

Unlawfully obtaining or attempting to obtain ballot box or ballots.

SECTION 13353. Whoever has in his possession a falsely made, altered, forged or counterfeited poll-book, tally-sheet, list or election return of an election, knowing it to be such with intent to hinder, defeat or prevent a fair expression of the popular will at such election, shall be imprisoned in the penitentiary not less than one year nor more than three years. (R. S. Sec. 7062.)

Possession of forged or altered poll-books, etc.

SECTION 13354. Whoever, being one of two or more persons congregating in or about a voting place, during the receiving of ballots, so as to hinder or delay an elector in casting his ballot, having been ordered by the judges of election to disperse, refuses so to do, shall be fined not less than twenty dollars nor more than three hundred dollars or imprisoned in jail not more than six months, or both. The judges of election, upon complaint being made that such persons are so hindering or delaying an elector, and being satisfied that there are substantial grounds for such complaint, shall order such persons to disperse. (R. S. Sec. 2951.)

Judges may order persons at precinct to disperse.

SECTION 13355. Whoever, being a deputy state supervisor of elections, or clerk of such deputy supervisors, upon whom a duty is imposed by law, wilfully or negligently violates or neglects to perform such duty, or wilfully performs it in such a way as to hinder the objects of the law, or wilfully disobeys any law incumbent on him, shall be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned in jail not more than one year, or both. (89 v. 460 § 9.)

Violation or neglect in performance of duty by deputy supervisors or their clerk.

SECTION 13356. Whoever, being an official upon whom a duty is imposed by an election law, wilfully or negligently violates or neglects to perform such duty, or wilfully performs it in such a way as to hinder the object thereof, or wilfully disobeys such election laws, for which no specific penalty has otherwise been provided, shall be fined not less than fifty dollars nor more than one thousand dollars or imprisoned in jail not more than one year, or both. (89 v. 450 § 31.)

Same by public officer.

SECTION 13357. Whoever, being a sheriff, constable, policeman, officer of the peace, or by-stander at an election, fails to forthwith obey and aid in enforcing a lawful order of the judges at an election in relation to persons who congregate or loiter within one hundred feet of a polling place of an election or place of registration of electors, or

Failure of sheriff, etc., to obey order of judges at election.

## MISCELLANEOUS.

in relation to the hindering or delaying of an elector in reaching or leaving such place, or in relation to the giving, tendering or exhibiting of a ballot or ticket to a person other than a judge of election within one hundred feet of a polling place, or in relation to the soliciting or attempting to influence an elector as to the casting of his vote, within one hundred feet of a polling place, shall be fined not less than twenty dollars nor more than one thousand dollars or imprisoned in the county jail not less than thirty days nor more than one year or both. (R. S. Secs. 2926f, 2938.)

Delegate or  
committee-  
man giving  
proxy.

SECTION 13358. Whoever, being a delegate or committeeman chosen at an election provided for by the laws relating to primary elections, gives or issues a proxy or authority to another person to act or vote in his stead, shall be fined not less than twenty dollars nor more than one hundred dollars and imprisoned not less than five days nor more than thirty days. (99 v. 223 § 40.)

Acting or  
voting in  
place of del-  
egate or com-  
mitteeman.

SECTION 13359. Whoever acts or votes in place of a delegate or committeeman chosen at an election provided for by the law relating to primary elections, shall be fined not less than twenty dollars nor more than one hundred dollars and imprisoned not less than five days nor more than thirty days. (99 v. 223 § 40.)

When prose-  
cutions must  
begin.

SECTION 13360. All prosecutions under this chapter must be commenced within two years after the commission of the act complained of. (98 v. 227 § 35; R. S. Sec. 7066.)

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